NOMINATION OF FREDERIC V. MALEK

HEARINGS

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

NOMINATION OF FREDERIC V. MALEK TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE

MARCH 12 AND 23, 1982

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NOMINATION OF FREDERIC V. MALEK

FRIDAY, MARCH 12, 1982

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 10:18 a.m., in room 3302, Dirksen Senate Office Building, Hon. Charles McC. Mathias, Jr., presiding.

Present: Senators Mathias, Danforth, Pryor, and Levin.

Senator MATHIAS. The committee will come to order.

We are honored this morning to open this hearing with a statement from the distinguished Senator from Virginia, Mr. Warner. He will introduce the nominee. Senator Warner.

TESTIMONY OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Thank you, Mr. Chairman.

Mr. Chairman, it is a pleasure for me to introduce Fred Malek who I have known for a long time. It is a privilege because he is a man, in my judgment, of achievement and great distinction. His abilities and experience are well suited for the responsibilities of the position for which he has been named by the President, namely that as a member of the Board of Governors of the Postal Service.

Mr. Malek has been with the Marriott Corp. since 1975 and now serves as executive vice president. In that capacity, he manages over $900 million in sales and more than 35,000 employees.

He once served as Deputy Director of the Office of Management and Budget from January 1973 to October of 1974. Prior to that, he served as Special Assistant to the President of the United States, and as Deputy Under Secretary of the Department of Health, Education, and Welfare.

He is a graduate of West Point, Mr. Chairman, and a former Green Beret. He received his MBA degree with distinction from the Harvard Business School in 1964.

Mr. Chairman, I shall not go into further detail because his complete background is set forth clearly in his biography. Suffice it for me to say, in my judgment, his experience, background and his willingness to continue in a role of public service qualifies him admirably for this position.

Thank you, Mr. Chairman. Good luck to you.

Mr. MALEK. Thank you.

Senator MATHIAS. Thank you, Senator Warner.

OPENING STATEMENT OF SENATOR MATHIAS

Senator MATHIAS. Mr. Malek, I take this opportunity to welcome you to the committee and to express the appreciation of the staff and of the committee members for your cooperation throughout the confirmation process.

The committee has conducted a careful review of the nominee and of his qualifications. Included in this review was an evaluation of biographical and financial information provided and answers to prehearing questions on policy matters that have been submitted to Mr. Malek.

In addition, the committee considered an evaluation submitted to it by the Office of Government Ethics and, of course, as is usual in such cases, a summary FBI report.

The staff conducted a personal interview with the nominee and a confidential report has been submitted by staff investigators to the chairman of the full committee.

Without objection, I will include in the record the responses of the nominee to both the biographical questionnaire and prehearing questions. Is there any objection?

This material, along with the nominee's answers to the committee's financial questionnaire are available for inspection in the committee's office during normal business hours.

[The information referred to follows:]

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)
Answer. Frederic Vincent Malek.
Question 2. Address: List current residence address and mailing address.
Answer. 6709 Lupine Lane, McLean, Va. 22101.
Question 3. Date and place of birth.
Answer. December 22, 1936, Oak Park, Ill.
Question 4. Marital status: (Include maiden name of wife or husband's name.)
Answer. Married—Marlene Anne McArthur.
Question 5. Names and ages of children.
Answer. Frederic W., 16; Michelle, 13.
Question 6. Education: List institution(s), dates attended, degree received and date degree granted.
Answer. Morton High School, Cicero, Ill. 1950–54, diploma; Morton Jr. College, Cicero, Ill., 1954–55, none; USMA, West Point, N.Y., 1955–59, B.S.; Harvard Business School, Boston, Mass., 1962–64, M.B.A.
Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.
Answer. 1964–67: McKinsey & Co., Los Angeles, Calif., consultant; 1967–69: the Triangle Corp., Orangeburg, S.C., co-chief executive; 1969–71: HEW, Washington, D.C., Deputy Under Secretary; 1971–73: The White House, Washington, D.C., Special Assistant to the President; 1973–74: U.S. Office of Management and Budget, Washington, D.C., Deputy Director; 1975: Present, Marriott Corp., Marriott Drive, Washington, D.C., executive vice president.
Question 8. Government experience: List any experience in, or association with Federal, State or local governments, including any advisory, consultative, honorary or other part-time service or positions.
Answer. 1969–71: HEW, Deputy Under Secretary; 1971–73: The White House, Special Assistant to the President; and 1973–74: U.S. Office of Management and Budget, Deputy Director.

Question 9. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational, or other institution.

Answer.

Mark Controls Corp., director.
ADP Corp., director.
Sargent-Welch Scientific Co., director.
Lehman Capital Corp., director.
National Center for Economic Education for Children, advisory board.
PIA Partnership, advisory board and limited partner.
Holdoil 1979 Oil & Gas Partnership, limited partner.
Holdoil 1980 Oil & Gas Partnership, limited partner.
NRM '80 Ltd., limited partner.
Crescent Development Drilling Partners, limited partner.
MEC, Inc. 1981 Explorations Partnership, limited partner.
Northwest Wichita Assoc., Ltd., limited partner.
Rankin Square Associates, limited partner.
2020 Associates, limited partner.
Cinnamon Associates, Ltd., limited partner.
PIA-A Partnership, limited partner.
Frio Ranch, limited partner.
San Gabriel Ranch, limited partner.
375 Flathead Ranch, limited partner.
Summers Preston Apts., limited partner.
Causeway Plaza Assoc., Inc., limited partner.
Adams Office Assoc., Ltd., limited partner.
JBG/Clark Associates, limited partner.
Laurel Creek Development Drilling, 1981, limited partner.
West Esplanade Assoc., limited partner.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Answer. Member: American Management Association, Harvard Business School Club of Washington, and West Point Alumni Association.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Answer. Nominal (under $100) contributions to Republican Party over last 10 years. Contributed nominal amounts to State and local candidates. Contributed $1,000 to Reagan for President Campaign in 1980.

Question 12. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. Honorary degree: Doctor of Humanities, St. Leo College, 1970.

Question 13. Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. Articles, "Assessment of Management Quality" Harvard Business Review, 1968. Article, "Mr. Executive Goes to Washington" Harvard Business Review, 1972. Book, "Washington's Hidden Tragedy, The Failure to Make Government Work" The Free Press, McMillan, 1978. Other articles in Business Horizons, Public Admin. Review, NY Times, and several other papers.

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Selection: (a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answers. (a) Experience in management of large organizations in public and private sectors.

(b) Top management positions in government and private sector. Experience in analyzing and handling complex issues that impact the public.

B. FINANCIAL DATA (RETAINED IN THE COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. If confirmed, I will be serving in a part-time post only. Therefore, I plan to retain all present connections with employers, etc., as documented earlier in the submission.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. If confirmed, I will be serving in a part-time post only. Therefore, I plan to retain all present connections with employers, etc. as documented earlier in the submission.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. Not applicable to part-time posts.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. Not applicable to part-time posts.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. All continued as stated above.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None to my knowledge.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None to my knowledge.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None, other than my work in government.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. I would clearly disassociate myself from any decision or discussion on matters coming before the Postal Service Board of Governors that pose or seem to pose any conflict of interest.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any Federal, State or other law enforcement authority for violation of any

Federal, State, of county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? Is so, provide details.

Answer. I do not recall specifics, but large companies that I am associated with have undoubtedly been involved in some civil litigation.

Question 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None comes to mind.

RESPONSES TO PREHEARING QUESTIONS

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1. Were any conditions, expressed or implied, attached to your nomination to be a Governor of the United States Postal Serivce?

Answer. No.

Question 2. What commitments have you made with respect to the policies and programs you will attempt to implement as a Member of the Board of Governors?

Answer. None.

Question 3. Are there any issues involving the Postal Service from which you may have to disqualify yourself? If so, please explain.

Answer. None to the best of my knowledge.

Question 4. Did you actively seek this nomination? Explain.

Answer. No.

Question 5. What contribution do you feel you can make to the Postal Service as a Member of the Board of Governors?

Answer. As a member of the Board of Governors, I believe I can effectively represent the public interest through an independent, objective, and analytical approach to all issues and decisions that will come before the Board.

My experience includes executive positions in the Federal government and private business in which I have analyzed complex issues and dealt with problems of the operational effectiveness and efficiency of large scale enterprises. My hope is that this experience will be helpful in dealing with decisions that come before the Board of Governors and in developing a questioning but constructive approach to delving into and evaluating the policies and operational effectiveness of the Postal Service.

II. RESPONSIBILITIES OF THE BOARD OF GOVERNORS

Question 1. What is your view of the role of the Board of Governors of the Postal Service? What do you believe are its most important functions and responsibilities?

Answer. The general duties of the Board are weil defined in the Postal Reorganization Act and are best summed up in Section 205(a) which states that the Board "shall direct and control the expenditures and review the practices and policies of the Postal Service, and perform other functions and duties prescribed by this title." Among the most important of these "other functions" are, in my opinion, the selection of the Postmaster General and Deputy Postmaster General; the authority to fix rates and classes, as set forth in Chapter 36, Subchapter II of the Act; and the review and approval of long-range plans, capital expenditure plans, the annual Postal Service budget, and request for appropriations.

Beyond these specific duties, I believe the Board of Governors have responsibilities that, while less explicit in the Act and legislative history, are nonetheless fully as important. In this view, the basic role of the Governors is how best to insure the businesslike operation of this extremely important public service agency. This involves balancing the "businesslike" aspects and the "public service" requirements, so as to insure that the public receives both full service *and* a full measure of efficiency. Making policy decisions that honor both these needs is the major responsibility of the Governors.

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Question 2. How do you view the relationship of the Board of Governors to the Postal Service and, specifically, to the Postmaster General?

Answer. As with boards of directors in the private sector, the Postal Service Board of Governors is not charged with running the organization (that role belonging to management), but rather with making the most important, broad policy decisions. The role of the Postmaster General is to adhere to this policy, making all the day-to-day individual decisions necessary to the achievement of this task—excluding those decisions specifically reserved by the Act for the Governors.

Thus the Governors collectively guide the Postmaster General but allow him or her the latitude to make daily operational decisions. As in any relationship between a board and a chief executive, there will be times when some Board members believe the decisions of the executive do not concur with broad policy. In these situations, a majority of the Governors has authority to redirect the Postmaster General—and if the deviation is judged extreme, to remove him.

In general, however, the Governors should appoint a person in whom they have trust and then allow that person to fulfill his or her responsibilities without undue interference. It is for this reason that I think the authority to appoint a Postmaster General is one of the Governors' most significant responsibilities.

Question 3. How do you view the relationship and responsibilities of the Board of Governors to the President, the public, and the Congress?

Answer. The Postal Reorganization Act clearly severed the reporting relationship the old Post Office Department had to the President, making Postal Service management immediately accountable instead to the Board of Governors and to oversight by the Congress. Therefore it is clear that the Postal Service is not intended to look to the President for direction on postal policy.

However, the Postal Service should not operate in complete isolation from the White House. Because the Postal Service has a significant effect on the nation's economy, I believe it should keep the White House informed of those postal activities that have the potential of affecting the nation's life. A good example would be keeping the President informed of the course of postal labor negotiations, since lack of success in these negotiations could mean disruption of the nation's mail service.

Further, as the nation's Chief Executive, the President also has delegated authority to set certain national policies that affect all Federal agencies, whether independent or not. An example would be the defined authority of the President in certain energy policy matters. The Postal Service must keep itself fully informed on these policies and adhere to them as the law may require.

The fact that the Postal Service is an independent Federal agency in no way makes it independent of the Congress. Congress' oversight responsibility concerning the Postal Service is clear, the Postal Service owes full accountability to the Congress. The role of the Governors in this matter is to see that management is fully cooperative with the Congress. It is also evident to me that the Governors individually have accountability to the Congress, as they may be called on to provide it.

The Governors' responsibility to the public is to insure that policies are followed by management that provide "the prompt, reliable, and efficient services to patrons in all areas" that is called for by the Reorganization Act. Beyond this, the Governors also owe the public full knowledge of the actions they take that affect use of the mails. I therefore fully support the Government in the Sunshine provisions that require most decisions by the Governors to be deliberated in public.

VII. POSTAL REORGANIZATION

Question 1. Various proposals have been made to increase the accountability of the Postal Service to the Congress including Presidential appointment of the Postmaster General or the Chairman of the Board of Governors. How do you feel about these proposals?

Answer. I believe an appropriate level of accountability to the Congress and the President exists at this time and do not favor changing the current basic structure and accountability of the Postal Service.

My understanding is that the Postal Service was established as an independent Federal agency to divorce it from the political arena so it could pursue development of a professional management, a responsible capital improvement program, management continuity, and so forth. In short, it was recognized that the mail system performed a businesslike function and therefore should be operated in a

businesslike way. At the same time, this relieved Congress and the President of many onerous chores connected with the postal system so they could, properly, devote more time, attention and resources to higher national priorities.

My concern is that appointment of the Postmaster General or Chairman of the Board of Governors by the President would needlessly reattach to the White House and the Congress problems that seem under control in the present arrangement. Moreover, this could insert political considerations into the selections, thus mitigating against what I interpret as the intent of the Postal Reorganization.

Question 2. The Postal Rate Commission is a unique regulatory agency in that it does not have final decision-making responsibility with respect to most matters brought before it. As you know, this responsibility rests with the Board of Governors of the Postal Service. Do you believe that this arrangement should be maintained? If so, why?

Answer. I believe the present arrangement allowing the Governors to exercise final authority in rate and classification proceedings should be retained.

If Postal Rate Commission judgments were final, it would be making all major decisions on rates and services, the two areas of prime importance. This would mean that the Rate Commission would, de facto, assume the role now performed by both top management and the Board of Governors.

I believe it would be unhealthy to vest such broad authority in a body which is divorced from the day-to-day operations of the Postal Service. I believe the Board of Governors is in the best position to analyze all the factors and necessary trade-offs between rates, public service, and operating effectiveness.

Question 3. Would you recommend any changes in the role and responsibilities of either the Postal Rate Commission or the Board of Governors?

Answer. I believe that it would be healthy for the Congress to re-examine the roles and responsibilities of the Postal Rate Commission and the Board of Governors, based on the experience of the last 10 years. Based on what I know at this time, however, I have no recommendations for change.

IV. POSTAL SERVICE OPERATIONS

Question 1. To what extent do you view the Postal Service as a public service appropriately financed out of the United States Treasury?

Answer. The Postal Service clearly provides a public service as defined by its enabling legislation. "It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities."

As such, the Postal Service is obligated to provide services that may not always be covered by its full cost of operations. In my view, this is appropriate, and to this extent it is appropriate for the Postal Service to be partially funded out of the U.S. Treasury. At the same time, I feel it is crucial for the Postal Service to perform with maximum efficiency so as to minimize support from the Treasury and to ensure that no segment of the public is unduly penalized. Finally, I believe it is the responsibility of the Congress to determine the proper level of Postal Service appropriations, measuring its funding against all other pressing national needs.

V. RELATIONS WITH CONGRESS

Question 1. What suggestions do you have for strengthening the relationship of the Board of Governors to the Congress; or do you believe that this is not necessary?

Answer. I would encourage a continuing dialogue between the Congress and the Board of Governors, as desired by the Congress. Further, I feel it would be helpful for the Board to meet before the relevant committees of Congress at least once each year to discuss the Postal Service annual report and any other priorities or issues of concern to the Congress.

Question 2. Do you agree without reservation to respond to any reasonable request or summons to appear and testify before any duly constituted Committee of the Congress?

Answer. Yes.

Senator MATHIAS. The Postal Service, as we all recall, was reorganized by the Congress in 1970 with the goal, with the hope, of putting its operations on a more sound and business-like basis to assist the Service in facing the challenges of the future—innovation such as electronic mail, repeal of the private express statutes, automation in all of its forms and the appropriate level of Federal presence, to name just a handful.

The 1970 reorganization created the Postal Service Board of Governors. The Board of Governors directs and controls the expenditures of the Postal Service, which are immense, reviews its practices and policies, establishes basic objectives and long-range goals in accordance with the provisions of the Postal Reorganization Act.

The members of the Board, and I think this lends particular significance to this nomination, are appointed for 9 years, a term which is greater than two Presidential terms. Its members are appointed for that length of time specifically to enable Board members to develop an intimate familiarity with the Postal Service; a familiarity which is necessary to carry out the mandates of the law. It is roughly equivalent to a corporate board of directors and, as such, each member must have management skills and administrative interests. Each member must be able to perform in the highly complex, highly competive world of communications while maintaining a sense that this is a public service institution. The Postal Service Board of Governors requires a sense of public interest which is, of course, what is ultimately to be affected.

The President of the United States has honored Mr. Malek with his nomination because the President believes that he fits these criteria exceedingly well. He has an extensive and impressive background which will assist the Postal Service in meeting its challenges in an efficient and business-like manner.

Mr. Malek, the rules of the committee require that all witnesses at nomination hearings must give their testimony under oath. Would you please stand and raise your right hand.

Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. MALEK. Yes, sir, I do.

Senator MATHIAS. Please be seated. Before I call on you for a statement, let me first call on Senator Levin to see if he has any statement.

Senator LEVIN. No.

Senator MATHIAS. Senator Danforth?

Senator DANFORTH. No, Mr. Chairman. Thank you.

Senator MATHIAS. Senator Pryor?

Senator PRYOR. Not at this point, Mr. Chairman. I may later. Thank you.

Senator MATHIAS. We will wait with breathless anticipation.

Senator PRYOR. I am sure you will.

Senator MATHIAS. Mr. Malek, the floor is yours.

TESTIMONY OF FREDERIC V. MALEK, NOMINEE TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE

Mr. MALEK. Thank you, Mr. Chairman. I am pleased to have this opportunity to appear before this committee for consideration of my nomination to the Board of Governors of the U.S. Postal Service.

As I have pointed out, Mr. Chairman, the mission, complexity and size of the Postal Service pose management challenges of enormous dimensions and raise issues whose resolutions have far-reaching ramifications to the American public.

It's the opportunity to help resolve these issues and to assist in meeting the management challenges that motivate my desire to serve as a Governor.

I am certainly not an expert in Postal matters and am not at this point sufficiently knowledgeable to have any definitive judgments on the many complex issues facing the Postal Service. However, I do feel that my background and experience are relevant to the prospective assignment. This background, which encompasses management experience in both Government and industry, I would now like to summarize.

During the middle 1960's, I was a management consultant, advising a number of corporations, on management problems and later headed a manufacturing company.

From 1969 to 1974, I served the Federal Government, first as Deputy Under Secretary of the then Department of Health, Education, and Welfare. I served as the Secretary's principal advisor on organizing and managing this large department. Later, as Special Assistant to the President of the United States, I was responsible for overseeing noncareer personnel activities and for recruiting Presidential appointees.

Finally, as Deputy Director of the Office of Management and Budget, I had the opportunity to deal with the broad range of public policy issues and to assist the President in managing the Federal Government.

Mr. Chairman, this committee has expressed particular interest in a small segment of my Government service which is my role in the so-called responsiveness program of 10 years ago, and I would like to comment briefly on it.

In early 1972, the senior White House staff wanted to assure that political appointees in departments and agencies were aware of political priorities, considered these priorities and their activities and searched for opportunities to coalesce public support behind the President. Subsequently, my office prepared a plan for communicating political priorities to the administration's appointees and provided a conduit for the Members of Congress, Governors, mayors, and political officials to communicate their feelings and desires to the departments.

Nothing illegal or unethical was intended or implemented in any of these activities. However, White House and department aides prepared several progress reports and memos designed to show action and these gave the impression of improprieties. This, in turn, led the Senate Watergate Committee to thoroughly investigate the so-called responsiveness program.

Following the Senate committee's report, the entire matter was turned over to the Justice Department's Special Prosecutor. This program was thoroughly investigated by both the Special Prosecutor and the Federal Bureau of Investigation. It is significant to me that after a most comprehensive investigation by both bodies, no one was charged or prosecuted for activities related to the responsiveness program.

While I feel this conclusion is convincing and puts the issue to rest, I think perhaps my retrospective views on the matter might be useful to the committee. I feel the effort was a mistake and I regret my role in it. There are two reasons for this:

First of all, this effort orchestrated by the White House created an atmosphere in the White House and amongst departmental appointees where over zealous staff people might be encouraged to step dangerously close to the brink and even overstep the boundaries of legality and propriety. This type of atmosphere, in my opinion, was a major flaw in the Nixon White House.

Second, this organized effort and the attendant memos convey appearances of impropriety to the public, thus, tending to reduce public confidence in government. My own view is that good government makes good politics, and I am totally against political activity carried out at taxpayers' expense. Moreover, I would be totally against the introduction of political considerations and motivations into any of the policies, operations, or activities of the Postal Service.

Let me briefly touch on my experience since leaving government 8 years ago. Since that time, I have been with the Marriott Corp. and have been its executive vice president since 1978. Among other things, I am directly responsible for all Marriott Hotels, which is a rapidly growing, highly profitable enterprise employing over 30,000 people.

I believe there are a number of similarities between Marriott Hotels and the Postal Service that should make my experience relevant. Both enterprises are large and both are run through multiple locations. Both are service businesses which depend largely for their success on the excellence, productivity, and courtesy of thousands of employees. They are both people intensive and depend for their organizational vitality on sensitive and effective employee relations.

In addition to my work at Marriott, I currently serve on the board of directors of three New York Stock Exchange companies. The Board of Governors has responsibilities that are very similar to these corporate boards. I believe this experience will be helpful as well.

In sum, I have a genuine desire to serve as a governor, am intrigued and interested by the complex issues facing the Postal Service and have experience in managing large organizations and analyzing public policy issues. If confirmed, I intend to apply myself with diligence and determination to the duties of the Board of Governors.

Thank you for this opportunity to make this opening statement and to appear before you today.

Senator MATHIAS. Thank you, Mr. Malek, for a candid and helpful statement.

Let me ask you a few questions which are standard questions that are asked of nominees before this committee and other committees.

Is there anything that you are aware of in your background which might present a conflict of interest with the duties of the office to which the President has nominated you?

Mr. MALEK. No, sir.

Senator MATHIAS. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging your responsibilities as a member of the Board of Governors of the U.S. Postal Service?

Mr. MALEK. No, sir.

Senator MATHIAS. Do you agree without any reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. MALEK. Yes, I do.

Senator MATHIAS. Is there any issue presently under consideration by the Board of Governors of the U.S. Postal Service, or one that you could reasonably anticipate would come before the Board, from which you would have to recuse yourself, disqualify yourself?

Mr. MALEK. I know of none, sir.

Senator MATHIAS. None of us, of course, has the ability to look into the future with any great accuracy. To the extent that you can look into the future, however, would you anticipate that you would serve the full term for which you have been nominated?

Mr. MALEK. Yes, sir, it would be my intent to serve the full term. It is an important prerequisite of someone who aspires to one of these positions.

Senator MATHIAS. In your statement, you referred to your duties with the Marriott Corp. and other business enterprises as providing you with some qualifications that you think would be useful. Perhaps you would like to be a little more specific in relating those qualifications to the Postal Service itself, explaining why and how you think you bring something of special value to the Postal Service.

Mr. MALEK. I think a prime requirement of a Governor of the Postal Service and a member of any board of directors is to be able to quickly grasp and analyze complex issues. In the case of the Postal Service, issues have very far ranging impact on the American public and often are very, very complex. My experience does include executive positions in both the Federal Government and private business, and I have had considerable experience in analyzing issues of this complexity in dealing with problems of far ranging operational effectiveness in large-scale enterprises.

My hope is that this experience that I have had in both the Federal Government and in managing a large corporation in the private sector would be very helpful to me in being able to deal with the decisions which come before the Board of Governors and developing a very questioning but constructive approach to delving into and evaluating the policies and operational effectiveness of the Postal Service.

I think it would be very difficult for someone without a fair breadth of experience in working with issues of this sort, to take an independent and objective point of view in dealing with the issues that are presented to it by the staff of the Postal Service. I think the fact I have dealt with these issues before, I have had 10 or 12 years of experience in dealing with them, would give me this ability to take an objective and independent point of view in dealing with the various issues that would come before the Board.

Senator MATHIAS. The Marriott Corp., which I know very well because its headquarters are in Maryland and the Marriott family have been our friends and neighbors for many years, is a very competitive enterprise. For many years, the Marriotts have personally been out selling, selling just as hard as they could. This kind of conduct is responsible in part for the success of the business.

I would suggest that the Postal Service is now in a competitive business. At one time, it was an almost total monopoly. Today it is highly

competitive. It is facing more competition than at any time in its history.

What is your view of the competitive nature of the communications business as represented by the Postal Service?

Mr. MALEK. Mr. Chairman, I think it's highly competitive. However, I would like to discuss the competitiveness on two levels. On the one hand, I think the Postal Service is competitive with itself in terms of gaining greater efficiencies and continuing to undertake its mandate to serve the American public, but at the maximum efficiency. I think one of the great challenges in this regard is going to be to continue to motivate employees and to search for technological improvements and other productivity measures that will enable the service to carry out its fundamental mandate without large increases in cost to the American public.

The other part of the Postal Service deals more directly in the competitive environment in the delivering of small packages. There are discussions and deliberations going on regarding electronic mail. It is my view that the Postal Service, where it can provide a useful public function that is not being served by the private sector or where it can do it more efficiently and effectively than the private sector, has an obligation to provide that service.

On the other hand, at this point in time, and admittedly not being intimately familiar with all of the aspects of the Service, I am not sure that it should be competing head on with private corporations which have demonstrated the ability to carry on these very same services.

So I think the competitive challenge is more one of competing with itself to achieve greater efficiency and greater productivity and to provide more cost-effective service to the American public.

Senator MATHIAS. So in that latter category, more cost-efficient service to the American public, you would put an emphasis on the consumer aspect of this?

Mr. MALEK. Yes, very much so. I think the obligation to provide service to all communities, small and large, sometimes in a manner which costs far more than the revenues that are produced, is a fundamental obligation of the Service and one that needs to be continued, but one which needs to be continually evaluated to be sure they are doing it with the maximum efficiency.

It is not clear how often deliveries need to be made. It is not clear how many post offices you need or how many people you need to provide a good level of service. I think the levels should be established and the Postal Service should order itself to find ways to provide that service at the least possible cost.

From the materials I have been able to review to date, they have an admirable level of productivity, but more can be done.

Senator MATHIAS. I have just one other question, and then I will call on Senator Levin.

The very nature of the Postal Service is such that it is highly labor intensive. The men and women who perform the work of the Postal Service are ont only a very important group in the American society, they are a very large group in the American society. They have very able leadership both in local unions and national representation here in Washington.

I am wondering what consideration you have given to the labor issues that are involved in the Postal Service; if you would share with us your general thoughts about the employee relations.

Mr. MALEK. Well, being in a service business which depends on hundreds of thousands of employees to deliver the level of service that is required, I think the employee relations in this institution is probably as important and as key as in any institution I can think of.

I think it imperative that sound employee relations be maintained, that programs be developed that motivate employees. It gives them an opportunity to advance.

I think it is essential that these employees be given a chance for comparable pay with workers on the outside, and I believe they are under the law. I believe it is carried out. I also believe the organized unions that represent the Postal Service workers are quite appropriate, and I think the law as it is spelled out, which calls for binding arbitration in the case of any disagreements between management and the unions, is a valid one. I support that very much, and I would hope my experience in Marriott, which is also a people-intensive business and where we put a great deal of emphasis on employee relations will be helpful in providing a certain amount of guidance to the Postmaster General in this very key area.

Senator MATHIAS. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

Mr. Malek, I have reviewed the memos which have been provided to us by staff on the so-called responsiveness program that you participated in and helped to design 10 years ago. It seems to me that this program systematically called for providing Government services to the highest bidder, whoever would bid the most in terms of President Nixon's reelection.

The responsiveness program proposed to punish a low bidder and the nonbidders, people who wouldn't participate and people who wouldn't be responsive. It is stated that systematically Government powers would be used against those people. It stated the relationship between the White House and the program will be covered up—very clearly—that the ties between the White House and this program should be denied, obfiscated, covered up.

You talk about this episode in the following way: You think it was a mistake; there was nothing unethical that was intended; that it would tend to give an impression of impropriety; that it created an atmosphere where overzealous staff people might be encouraged to step close to the brink and even overstep the boundaries of legality and propriety; that the memos conveyed an appearance of impropriety to the public.

I read these documents and find them to be despicable. Your analysis of these documents and these actions are that they might convey an appearance of impropriety. I am wondering if you would concentrate on the documents themselves, just the actual program itself, and tell me whether or not, in your opinion, the memo and the subsequent reports outlined the actions which were unethical or immoral or improper?

Mr. MALEK. Senator, I think that these activities can be subjected to a great many people's interpretations and, in response to your question, I shall certainly give you mine.

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My intent during this period was not to commit any act that violated the public trust of my position in the U.S. Government. I believe that the activities that we undertook were designed primarily to communicate political priorities to our appointees in the departments and agencies, to ask these appointees to plan speaking engagements, press appearances, grant announcements in the areas of maximum impact, to ask them to insure that normal grants were announced by members of the administration in a manner that would reflect favorably on the President and to provide a channel of communication so that the hundreds of requests that continually poured into the executive branch from Governors, mayors, Members of Congress, and campaign people, so that these could be communicated in a way that would be consolidated and not get out of hand.

Now, I recognize that some of the documents were worded in such a way that could be misinterpreted. I can only assure you that nothing illegal or unethical was intended, and I don't believe, to my knowledge, carried out. I cannot assure you with total confidence that no one in the administration performed any illegal acts or unethical acts as a result of the atmosphere that was created or the impression that might have been created by these documents. I have no way of knowing that. And I think it is to this point that I feel the greatest regret because I do feel, as I stated earlier, that an atmosphere was created which could lend itself to abuse.

I would conclude my response to your question by restating again that the Special Prosecutor's Office did thoroughly investigate this matter. I realize that the lack of a particular charge or the lack of a particular indictment does not necessarily prove innocence or prove the assertions that I am making, but I think those of us, those of you who witnessed the events at the time know that the investigations that were carried out were most thorough, that no stones were left unturned in the investigations that were carried out, and the conclusion was evidently reached by both the Special Prosecutor and the FBI that there was not wrongdoing, where they did not choose to charge anyone and, in fact, I was, to my knowledge—they did not even ask us—those of us who were involved in this activity—to appear before a grand jury.

So I conclude from that that there was a thorough investigation, and I think this find or lack of finding is in support of my assertion. At the same time, there are a lot of things that you would like to and I would like to do over again. A lot of things in our personal lives and in our professional lives don't come out exactly the way we thought they would, don't have exactly the impact we thought they would, or we did not perform in the way we feel would represent the best possible performance that we are capable of. And this is clearly one of those, sir.

If I had it to do over again, I clearly would do it differently.

Senator LEVIN. Mr. Malek, my question related to the documents, not to your intent that nobody can ascertain except you in your own heart. There is no way these documents can be laundered by talking about your intent or by misinterpretation. These documents are not subject to misinterpretation. They are subject to only one interpretation, and that is a coldblooded, calculated effort to sell Government favors to the highest bidder in the Nixon reelection campaign.

Mr. MALEK. That is absolutely false, Senator.

Senator LEVIN. I am not going to interpret them, but read them and ask that these documents be placed in the record.

Senator MATHIAS. Without objection, they will be a part of the record.

[The documents referred to may be found in the committee files.]

Senator LEVIN. Page 8312 of the Watergate hearings. This is an "extremely sensitive—confidential" document that you wrote, according to its heading. I understand these were all burned after a few months.

Paragraph 1 at the bottom of that page:

> Under the current procedures, it is the usual rule that the departments do only as they are instructed and only in a limited number of cases are the actions self-generated. The burden is on Gifford to develop methods to gain appreciation for the administration. He relies on the campaign apparatus, White House staff, direct consultation with campaign management, as well as ideas generated by the departments themselves. Thus, the effort from the departments is largely reactive.
>
> During the recently completed budget cycle, Gifford worked closely with the budget examiners to ensure the budget was as supportive as possible for the President's re-election.
>
> The Department of Commerce provides a good example. To date, Gifford has made some 35 requests. Most of these involved expediting normal grant reviewing processes, and securing the release of information. Approximately a dozen of these requests resulted in favorable grant decisions (which otherwise would not have been made) involving roughly $1 million.

Skipping down a few paragraphs: "Even if only 5 percent of this amount"—of the discretionary funds—"can be rechanneled to impact more directly on target groups or geographic areas, it would be a substantial increase over the current efforts."

Then you talk about systematically, but discretely, seeking out opportunities—"systematically," not my word but the memo's word, "but discretely seek out opportunities for improving services to target groups and geographic areas and then ensure that appropriate action is taken," and then setting out the priorities one by one in terms of setting up the program, talking to the Cabinet, telling them what the program is.

"The political priorities would be spelled out"—on page 8314—

> in terms of key States and major voting bloc groups upon which departmental action could have an impact. The departments would be updated as needed, as the political priorities evolve.
>
> Next, the types of activities covered under this program would be discussed. The major ones, of course, are positive decisions (e.g., project grants, contracts, loans, subsidies, procurement and construction projects), and negative actions (e.g., taking legal or regulatory action against a group or governmental body, major cutbacks in programs and relocation of department operations.

And then the whole business of first meeting with the Cabinet—didn't you put the Cabinet on this memo?

Mr. MALEK. We met individually with members of the Cabinet or the Under Secretaries.

Senator LEVIN. Did you review the departmental plans with them to assure, in the words of your memo, that they map out the best possible effort to meet the priorities?

Mr. MALEK. No, Senator, what we did is we met with the department heads or the deputies and we familiarized them with what we considered to be the key States in the election, those small groups of

States which would probably be the decisive factor in the election. We familiarized them with the major issues as we saw them in those States and the key voting groups within those States that we thought would be important.

Senator LEVIN. Did you review the departmental plans with Cap Weinberger and the relevant domestic council staff members, according to this memo?

Mr. MALEK. I don't believe we ever developed or reviewed department plans, Senator.

Senator LEVIN. It says, according to your memo, that the Malek-Gifford operations should be the central point through which all White House direction on politically sensitive operating matters flows to the departments. Was it?

Mr. MALEK. We tried to centralize the communication of all political matters through that office in order to contain it, not have a lot of people going off in their own direction.

To a certain extent, I assume we achieved that. However, this was largely routine requests for information or routine statements of preference, most of which emanated from the Congress, some of which came from Governors, mayors, and campaign officials.

The whole intent here was to make sure our appointees knew what the political priorities were, knew what the most needy groups were within the political priority States and cities and, to the extent possible, maximize the support of the President in these areas. We didn't tell them how to do it.

Senator LEVIN. I have run over my time. Thank you, Mr. Chairman. I would like to come back.

Senator MATHIAS. I will make a suggestion, while we have this break in questioning. We haven't set any firm rules on the time for questions, but if we could keep them between 10 and 15 minutes on each round, that should give everyone an adequate opportunity.

Senator Danforth?

Senator DANFORTH. Mr. Malek, I have been in the Senate 5 years, and I think during that period of time I have only voted against a Presidential nominee four times. So I have a very strong presumption in favor of voting for confirmation of a Presidential nominee. One exception to that rule would be if the nominee stands for something which is totally contrary to basic principles that I have tried to represent while I have been in Government.

I have been fighting the spoils system ever since I have been in public life. When I first went into government—State government, where I spent 8 years of my life—it was the spoils system in the extreme. Jobs and contracts were awarded according to party loyalty, bank accounts were placed in politically favored banks, and I felt that it was wrong, and an abuse of public trust.

I could not cast a vote in favor of a nominee if that vote were viewed as somehow confirming not only the nominee, the President's choice, but also a concept of Government which, to me, is just totally wrong.

My understanding of the responsiveness program, whether it was legal or illegal, whether it was deserving of an indictment or not deserving of indictment, is that it was wrong, just plain wrong. It is my understanding of the responsiveness program that the aim of it was to make sure that the resources of the Government were mobilized

in order to benefit the reelection campaign of President Nixon. And toward that end, an effort was made to channel Federal grants and loans and subsidies of one kind or another from otherwise deserving or meritorious people or groups toward people or groups who were supportive of the reelection campaign of the President; that an effort was made to channel nonbid contracts toward people who could help out on the President's campaign; that hiring even of career Government jobs was supposed to be directed in order to benefit the President's political efforts; and that even, at least in one case—a decision whether to sue or not to sue—there was an effort to influence that in accordance with whether it would benefit the reelection campaign of President Nixon.

I have two questions. The first is, is this a fair characterization of the responsiveness program? Is that the essence of it? Were those factors a part of it?

Mr. MALEK. No, Senator, I really do not think it was a fair characterization. I think you are quoting from a brief which is an advocate's brief. I would encourage you and your colleagues, if you can possibly find the time, to read the transcript of the total hearing and the full committee report in order to get——

Senator DANFORTH. Let's go through these one at a time. Did the responsiveness program make an effort to direct Federal grants, loans, subsidies toward recipients who were supportive of the President's reelection campaign?

Mr. MALEK. Senator, no, it didn't. The intent was to single out those areas, those States and cities in the country and those important target groups within those States where public appearances, grant announcements, and the funneling of grants would have a higher impact.

Senator DANFORTH. And the funneling of grants, not just the announcements of them, but the funneling of the grants?

Mr. MALEK. In other words, we would state to a department or agency that here we have Ohio, which is a key State—for example, I am just using this as an example—and in Ohio, there is a great deal of innercity unemployment, and anything that can be done to help the city of Cleveland with its dire unemployment problems would be a political plus, and if that can be done in a way that otherwise fits within the mandate of your programs, that is something we, from a political point of view, would like to see.

Senator DANFORTH. How about grants to, say, minority organizations, black organizations, Hispanic organizations: Was an effort made to channel those grants in a way so as to help the President's reelection campaign?

Mr. MALEK. Once again, the intention and, to my knowledge, the direction was to point out those minority groups in those areas that were most needing of Federal assistance, and then it was up to the departments to determine what to do with that.

Senator DANFORTH. There was no effort then to target specific recipients, specific organizations, or individuals which would be recipients of Federal grants is such a way as to reward recipients who were supportive of the political activities of the President?

Mr. MALEK. I cannot say that nothing of that sort was done throughout the administration. I did not have my hands on all the——

Senator DANFORTH. Wasn't that the role of the responsiveness program?

Mr. MALEK. It was not the role of the responsiveness program.

Senator DANFORTH. You didn't do that?

Mr. MALEK. It was not my intent, and I never asked for a grant to be made to any particular person as a reward for political support. I think if I had, that would have been a prosecutable defense and I would have been prosecuted, but I did not.

Senator DANFORTH. Was there an effort to have campaign officials sign off, either approving or disapproving, of Government grants and contracts to Spanish-speaking groups?

Mr. MALEK. I never knew of any.

Senator DANFORTH. You didn't make any such effort?

Mr. MALEK. No, sir.

Senator DANFORTH. And none was made at your behest?

Mr. MALEK. That is correct. Now, again, I must qualify my answer, I did not have my hands on the total mechanisms of Government.

Senator DANFORTH. Did you or did anyone working under you or for you participate in the selection of non-bid GSA architectural and engineering design contracts?

Mr. MALEK. Senator, I reviewed the record prior to coming to this hearing, and I have noted a couple of affidavits in the hearing that states that there were reviews made of qualified GSA-approved architects. I would like to point out, that the affidavits state this was done several months after my departure from the White House. I knew of no such review.

Senator DANFORTH. You knew of no such review, no such participation in the awarding of contracts?

Mr. MALEK. No, sir, it was 2 months after I left the White House that those affidavits state this was done.

Senator DANFORTH. Did you make any attempts to insure that political factors were considered in hiring persons for career Government positions?

Mr. MALEK. No, sir.

Senator DANFORTH. Did you communicate with the chairman of the EEOC with respect to any legal action which was being considered in the State of Texas?

Mr. MALEK. No, sir, I did not. I think that is a particularly good example of the contrast between what might appear in the report and what is true. I am looking at Mr. Hamilton's advance testimony, and I believe he is quoting from the Watergate Committee's report where he states that:

> **Mr. Malek claimed that after an inquiry, the chairman of the EEOC reversed his position and agreed not to sue the University of Texas for discrimination in hiring faculty—an action, Mr. Malek wrote, that "could be disastrous in Texas."**

That simply wasn't the case. If I can quote from the memo that is also in the Senate Watergate report, it states that:

> **Senator Tower was informed by Vice Chairman Holcom that Ed Pena, Director of Compliance, had recommended to Bob Brown that EEOC sue the University of Texas. Brown appeared to agree. If such a suit took place, the result would be a serious, negative impact in a key State. Brown denies the suit is under consideration. This should be followed carefully.**

In other words, an inquiry was made. This is true. Is Senator Tower's information correct or not? And Chairman Brown denied it, and in Chairman Brown's affidavit, which is also in the committee report, he states that there was never any White House pressure brought and that in point of fact, the EEOC at that time did not have the legal right to bring suit, so that the issue was moot anyhow. He couldn't have brought suit even had he chosen.

I think there are a lot of these sort of things which can be given to various interpretations, and I am not here to defend the entirety of what you have before you and what constituted the responsiveness program because I don't defend it. I said in my opening statement, I thought it was wrong, and I regret my participation, but at the same time——

Senator DANFORTH. Here is my view of it. I don't know what the facts are. From what I know of the facts, or what I understand the facts to be, it is my view that it is just wrong.

Mr. MALEK. I agree.

Senator DANFORTH. And if you are here to say, yes, this was the case, you admit that it was the case, it was wrong—not just whether it is legal or illegal, but that it's wrong—that it won't happen again, that you regret that it was done, that, to me, is sufficient.

I don't think that anybody should have to go through his whole life continuing to apologize for something he has already apologized for once and that he said is wrong once. Can I just, Mr. Chairman, ask some hypothetical questions?

Senator MATHIAS. Yes.

Senator DANFORTH. Do you think, Mr. Malek, that it is wrong to award Federal grants or Federal loans or Federal subsidies on the basis of who can help an election campaign?

Mr. MALEK. I think it is totally wrong, Senator.

Senator DANFORTH. Do you think it is wrong to award nonbid contracts on the basis of who can help election campaigns?

Mr. MALEK. No, sir, I think it has to be done strictly on merit.

Senator DANFORTH. So you think it's wrong.

Mr. MALEK. I think it's wrong.

Senator DANFORTH. Do you think that it's wrong to try to influence the hiring of career Government people on the basis of their political activities?

Mr. MALEK. I absolutely think it's wrong.

Senator DANFORTH. Do you think it's wrong to try to influence the decision to sue or not to sue by a Government agency on the basis of political consideration?

Mr. MALEK. Yes, sir, I think that is wrong also.

Senator DANFORTH. And if you directly or indirectly participated in such events in the past, it is my understanding that you regret that and that you would not do so in the future?

Mr. MALEK. Yes, sir, I do regret it, and I would not do it in the future.

Senator DANFORTH. Thank you.

Senator MATHIAS. Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman. Mr. Malek, we have just gone through a wrenching, soul-searching, tragic case involving one of our own colleagues, Senator Williams. You saw him resign yester-

day from the Senate. One of the defenses and one of the issues discussed in the Williams' matter was the abuse of executive power.

Did you ever abuse executive power?

Mr. MALEK. Not to my knowledge, Senator.

Senator PRYOR. Are you aware that the Postal Service is a nonpolitical organization?

Mr. MALEK. Yes, sir, I am. This is one of the things that attracts me to want to be a service to it.

Senator PRYOR. If I might ask this question, I would like to know, and I am wondering, very honestly, if the White House or anyone in the White House has reread some of your memos, some of the Watergate testimony of the 1970's before your name was submitted to this committee?

Mr. MALEK. Well, Senator, to my knowledge, they are fully familiar and were fully familiar with the record prior to President Reagan nominating me.

Senator PRYOR. Was this a nomination or a position, Mr. Malek, that you sought, or were you sought out to accept this position?

Mr. MALEK. Senator, I was asked by the White House personnel office——

Senator PRYOR. Mr. James?

Mr. MALEK. By Mr. James, and suggested by members of his staff.

Senator PRYOR. And Mr. James formerly worked under you, as I understand it, in the responsiveness program?

Mr. MALEK. No, sir, that is not correct. Mr. James was an executive recruiter who worked under me as the top recruiter of Cabinet and sub-Cabinet level appointees.

Senator PRYOR. So Mr. James recruited you to present your interest in this particular position?

Mr. MALEK. Not exactly, Senator. Would you like me to describe it very briefly?

Senator PRYOR. Certainly.

Mr. MALEK. I had been asked on a number of occasions by members of the transition team and members of the White House staff for consultation on a range of organization issues. There aren't a large number of people who have had similar types of experience working in the White House, and because of my proximity here in Washington, and because of my prior experience, I think it is natural they would call on me for consultation from time to time.

During the course of these consultations, several people asked me whether I would be willing to accept or come onboard into some kind of a position, either full time or part time, and I replied while I could not undertake a full-time position that I would be very honored and pleased to participate in a meaningful way in serving the Government in a part-time capacity.

Several possible positions were mentioned to me, and the position with the Postal Service Board of Governors was mentioned. I thought I could make a contribution to and would have a real interest in the Board of Governors because of the very fact it isn't a political organization.

Senator PRYOR. Was the possibility ever discussed with you that when your name came before this committee and the Senate, that the Watergate era would not be discussed at length and your involvement or noninvolvement in the Watergate situation?

Mr. MALEK. No, Senator. In fact, I cautioned the White House that I was sure that it would be. I reminded them of the Watergate Committee's work and report on the responsiveness program and cautioned them that it most certainly would be raised. I cautioned them that the members of the committee, I was sure, would want to look into both the substantive qualifications and my character due to this, but that I felt my record was a clear one that I was willing to face up to those questions.

Yes, we fully expected it would be. At the same time, I felt that because it had happened some time ago, because it had been thoroughly investigated without charges and because I did honestly and earnestly regret the entire matter and, as Senator Danforth has pointed out in his questioning, to find that many of the alleged practices would not be those that I would——

Senator PRYOR. Well, what part of it would you regret? I think we are getting contradictory statements.

Mr. MALEK. Not really. We have two kinds of dialogs going on here. One dialog we were pursuing takes into account specific elements and says is this the way it was and was this done, and I am trying to say, to my knowledge, many of these things, as they are pointed out, were not done. But if they were, if these things were done, is it right or is it wrong.

I am saying, if it was done the way it is outlined in some of the testimony, it is absolutely wrong and absolutely contrary to my philosophy of government.

Senator PRYOR. You just made a statement a few moments ago—I can quote it back—"I am against political activity carried out at the taxpayers' expense." That was in your opening statement.

Mr. MALEK. Yes, sir.

Senator PRYOR. Yet you were the architect, basically, of the responsiveness program, is this not correct?

Mr. MALEK. I think there are things to it that go beyond the actual case.

Senator PRYOR. Who else was in charge of the responsiveness program?

Mr. MALEK. Senator, I don't think, in my view, to say that it was a program and to put it on that premise accelerated it beyond what it really was. Yes, we prepared a memo that outlined the communication and consideration of political priorities and the communication of these throughout the Federal Government.

Senator PRYOR. And were these memos basically kept in secrecy?

Mr. MALEK. Well, they were distributed within the White House, Senator. They were kept in the files of the people there. They obviously weren't widely disseminated.

Senator PRYOR. You didn't hand them out in the press gallery every afternoon, I assume.

Mr. MALEK. No, sir.

Senator PRYOR. Who did you report to in the White House, Mr. Malek?

Mr. MALEK. Mr. Haldeman, sir.

Senator PRYOR. Did you take directions from Mr. Haldeman?

Mr. MALEK. I took directions from both the President and from Mr. Haldeman; yes, sir.

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Senator PRYOR. Did you treat President Nixon's supporters differently from other citizens?

Mr. MALEK. In certain respects, in the hiring of the consideration of people for appointive positions for advisory boards and commissions, we certainly did. We, to my knowledge, did not with respect to the key issue here which seems to be grants.

Senator PRYOR. Do you take exception to the Watergate Committee's report describing the role of the responsiveness effort or program, or whatever we might call it, in the White House?

Mr. MALEK. I do take certain exceptions, and I don't mean to get into a definitive quarrel here with the Watergate Committee or the report it submitted. I think they undertook very deeply, very thoroughly an investigation of something that should have been investigated. I do feel, however, that some of the assertions in their report were somewhat overstated; yes, sir. And that, of course, gets to the other line of questioning of whether we want to go down issue by issue and look at some of these things and is this the way it was——

Senator PRYOR. I need to ask you this question right now because I really seriously don't want to get you in trouble. I am not saying that you are perjuring yourself, but I am asking this question:

Have you recently, before you came before this committee, have you reread your own memorandum of March 17, 1972? Have you reread the files?

Mr. MALEK. Yes, sir, I have.

Senator PRYOR. Do you have this fresh in your mind today?

Mr. MALEK. Yes, sir.

Senator PRYOR. As you appear before this committee?

Mr. MALEK. I most certainly do.

Senator PRYOR. Did you favor grants for President Nixon's friends, to the leaving out of some of the people who were not so friendly?

Mr. MALEK. No, sir, I did not. Again, let me clarify, I think the intent here was to point out areas of the country and voter groups whose support was essential in the reelection. That is what we were trying to do.

Senator PRYOR. And you were there to favor these people?

Mr. MALEK. No, sir, I was there to communicate to the departments and agencies where the political priorities lie so that in their consideration they would have some idea of where we thought the most urgent needs were in the key States around the country.

Senator PRYOR. So what you were doing was engaging in political activity carried out at the taxpayers' expense, just exactly what you said you were opposed to.

Mr. MALEK. Well, sir, I was compensated partly by the White House and partly by the campaign committee.

Senator PRYOR. Is that the CREEP Committee?

Mr. MALEK. Yes, sir. I think the issue here, Senator, is, if I may—may I?

Senator PRYOR. Certainly.

Mr. MALEK. I fully appreciate the nature of the questions that you are getting into. I think the real issue here is whether I am a person of integrity. That is the relevant issue as it concerns my qualifications to serve in the position to which I have been nominated.

I would ask that you look at the entirety of my record from West Point——

Senator PRYOR. I must say, I am more interested in the entirety and totality of that record than I am about your position on the nine-digit ZIP code. I think a discussion of issues like that is going to come at a later meeting. I do think, Mr. Malek, in all due respect, that we have got some serious issues relative to your background. I am not worried that you may be overqualified in the executive management field. I am deeply worried.

Mr. Chairman, I don't know how much time you have allocated for it, but I think there are an awful lot of questions I will have. I don't know about the others, but I'm not sure that we can do this in one hearing.

Senator MATHIAS. Let me say to Senator Pryor, we will take what time it requires.

Senator PRYOR. Thank you. I am going to yield at this moment.

Senator MATHIAS. I want to put into the record, if there is no objection, the statement which has been forwarded to the committee by Representative Edward J. Derwinski, in support of the nomination of Mr. Malek. I will make that a part of the record at this point.

[The statement referred to follows:]

STATEMENT OF HON. EDWARD J. DERWINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

I am pleased to support the nomination of Frederic V. Malek to the position of Governor on the Board of Governors of the U.S. Postal Service.

As ranking Republican member of the House Post Office and Civil Service Committee and a member of that committee when the Postal Reform Act of 1970 was written, I feel it is practical to compare the nominee's qualifications with the kind of credentials we had in mind when we wrote the act and created the Board of Governors.

The statute entrusted the day-to-day management of postal operations to the Postmaster General and the major institutional decisions, including the election of the Postmaster General himself, to the Board of Governors. We instructed the Board to "direct and control the expenditures and review the practices and policies of the Postal Service." It is under broad authority such as this that the Board acts, for example, to approve the annual budget, approve capital investment projects exceeding $5 million, and to decide when to request postal rate increases and classification changes. In short, the Board of Governors acts like a board of directors does in the private sector. In fact, that is what postal reorganization was all about—the attempt to provide an institutional framework structured in a way that will permit the Postal Service to take advantage of the benefits of efficient business organization.

Mr. Malek's credentials are as impressive as anyone's: holder of a masters of business administration from the Harvard University School of Business, he and two young associates purchased a faltering South Carolina tool company in 1967 and in 2 years transformed it into a booming concern. He became, at age 30, one of the Nation's meteorically successful executives. He taught business courses at the University of Southern California and has authored articles for several publications, including the Harvard Business Review.

To these accomplishments in the private sector must be added the nominee's extensive experience as a Government manager in the Department of Health, Education and Welfare and the Office of Management and Budget. In 1969, he was named Deputy Undersecretary of HEW, where he served as a management consultant for about a year before becoming special assistant to the President in charge of personnel.

Much has been said—and even more has been gossiped—about Mr. Malek's role in the improprieties which brought controversy to the merit system in the Nixon Administration. The so-called "Malek Manual" on how to remove unresponsive career employees was widely circulated by personnel experts with

varying degrees of nonpartisan objectivity. But Mr. Malek's decision to leave the Government early in the Ford Administration was no dishonorable discharge: he wanted the new President to have his own people.

These Watergate era whispers turned out to be a poor reflection of the facts; Mr. Malek did not write any manual; he was not indicted or reprimanded in any official way by the congressional or executive branch Watergate investigations; and, though he worked under White House Chief of Staff, H. R. Haldeman, he was never implicated in the latter's reprehensible dealings with matters far removed from personnel policy. In sum, I feel satisfied that no stone was left unturned in years of Watergate investigations, and I do not think it fair to suggest that these voluminous inquiries should be reopened.

I also do not think it is very relevant to harp on the role Mr. Malek is supposed to have played in dismissing political holdovers because the Postal Board of Governors is a part-time advisory body which does not make day-to-day personnel policy for the Postal Service. Adverse actions against postal employees are governed by law and by collective bargaining agreements negotiated under law. I imagine confirmation hearings would get very wordy if every rumor ever made against any nominee were dragged up and rehashed, regardless to its germaneness to the Government position in question.

A most important aspect of the nominee's Government service was his championing of management by objective. I would like to quote from a 1974 article in the National Journal Reports:

"MBO stands for management by objectives. It is a simple, common-sense style of management: you set measurable objectives for yourself, and you check regularly to see whether you are accomplishing those objectives.

"For Malek, the Deputy Director of OMB in the second Nixon Administration, MBO has become something of a dogma. OMB Director Roy L. Ash has endorsed MBO and devoted much of his time to it. But it is Malek who provided the drive that forced all 11 Cabinet departments and 10 independent agencies to adopt MBO as their management style."

It would be hard to find a more qualified candidate for the Postal Board of Governors with respect to versatile managerial skills and leadership qualities. The nominee's achievements are remarkably governmental and private, academic and practical, civilian and military. Also, because he has never been associated with a major mailer and client of the Postal Service, he meets the statute's stipulations against conflict of interest.

I want to stress, in conclusion, Mr. Chairman, that the nominee is no mere businessman. He is a graduate of the United States Military Academy and a decorated veteran of our most difficult and troubled conflict, the Indochina War. Graduating from West Point in 1959, he entered the Army as a second lieutenant in 1960 and was released in 1962 with the rank of first lieutenant, having won the Armed Forces Expeditionary Medal. Involved, as all Members of Congress are, with the appointment process to the Nation's service academies, I am sure you appreciate the all around degree of excellence required of a candidate. He must have strength of character, leadership qualities, and be an academic achiever. Mr. Malek has displayed an abundance of all those qualities. His varied successes are proof, if any were needed, that the service academies still produce cream of the crop leadership which has little difficulty distinguishing itself in civilian life.

Mr. Chairman, I am pleased to support the nomination of Fred Malek to the Board of Governors of the Postal Service.

Senator MATHIAS. Mr. Malek, in his statement, Representative Derwinski says that one of the purposes of the Postal Reorganization Act of 1970 was to provide an institutional framework structured in a way that would permit the Postal Service to take advantage of the benefits of efficient business organization.

What would be your comment to that statement?

Mr. MALEK. I think it clearly was the intent of the Reorganization Act to do that. The act, in essence, removes the Postal Service from the body of politics. The Governors, appointed for a 9-year term, not only have the opportunity to become familiar with the Postal Service issues, but to exercise a degree of total independence from the appointed

power of the Presidency and, therefore, to use their independent judgments and their actions. They, in turn, appoint the Postmaster General.

I think this is a very constructive thing because it takes the Postal Service out of politics, puts it on a business-like basis and enables all the decisions to be made on the basis of merit and the best judgment and objectivity of the people who are in those positions.

So I agree with the Congressman that was the intent, and I applaud the intent.

Senator MATHIAS. Having in mind the line of questioning that has just taken place, Senator Levin's, Senator Danforth's Senator Pryor's, how would you relate that to the ethical issues that they have raised?

Mr. MALEK. As I stated to Senator Pryor, I fully recognize and fully expected that the issues of character and integrity would be raised in this hearing and, in fact, welcome the opportunity to respond to it.

I think there are two or three points that I would make. First, I think in order to evaluate a person's integrity, you must look at the totality of the record. There has never been an incident in my record where I have been judged of being anything but a person of honor and integrity. I am a graduate of West Point. I served in the Armed Forces. I served in responsible positions in government and private enterprise, and I pride myself on my integrity.

On the issue before us, which we have spent a great deal of time on this morning, the responsiveness program, I state from the bottom of my heart that there was no intention of illegality or impropriety in any of these activities. At the same time, I recognize fully that they could have and very well may have led to abuses, given the impressions of impropriety and created an atmosphere under which acts which none of us could be proud of could have happened.

I fully deplore the program and regret the program for these reasons.

Senator MATHIAS. Of course, in your opening statement, you said you felt it was a mistake and had you that chapter to write again, you wouldn't write it. Is that correct?

Mr. MALEK. That's very true, Senator. May I make another statement?

Senator MATHIAS. Certainly.

Mr. MALEK. We went through, the Senate Watergate Committee went through days and days of hearings on this program. The Special Prosecutor's Office of the Justice Department and the FBI spent probably man-years on the issue. I don't know if it's the intent of the committee to go through this again in the same great depth or detail. I have no wish to do that. If it's the committee's wish to do that, obviously I will comply with it.

Senator MATHIAS. Let me interrupt you at this point. Senator Pryor says he can wait a while and get your views on the nine-digit ZIP code. There are some serious Postal questions I think we have to get to. There are questions of whether or not in your view, philosophically, the Postal Service ought to be self-sufficient. There are questions such as whether or not postal rates should be submitted to Congress for approval before they become effective. There are questions as to your philosophy on the appointment and removal of Postmasters General. Clearly there are a lot of serious questions that the public has a right to know your views on. But, first we have this question of history that

has come up this morning, and I suspect we better dispose of that to the extent that we can.

Of course, you did the most dangerous thing anyone could ever do in life; you wrote a book. So far, no one has raised the question of what you have written in the book. One of the great admonitions of history should be remembered: "Oh that mine enemy should write a book." So at least you are lucky on that.

Senator PRYOR. I have some pages that I was going to read and ask about a little later. I won't right now.

Senator MATHIAS. At this point, I am going to yield to Senator Levin.

Senator LEVIN. Mr. Chairman, Mr. Malek's response to Senator Danforth's questioning is really an interesting one, acknowledging in the abstract that certain activities are wrong but essentially denying any wrongdoing on your own part.

Did you do anything wrong yourself?

Mr. MALEK. What do you define as "wrong," Senator?

Senator LEVIN. Senator Danforth asked you whether or not any of those activities were wrong in the abstract, and you said everyone of them was wrong. Did you in any way participate in any of those activities?

Mr. MALEK. Well, Senator, as I pointed out, I felt many of the activities that are described in the Watergate Committee's report were somewhat exaggerated. I think some of our own internal memorandums which led to the committee's investigation report were full of hyperboles and somewhat exaggerated. To that extent, I think in allowing or participating in some of those memos and allowing an atmosphere to be created, I think I used bad judgment.

Senator LEVIN. I am just talking about the activities which Senator Danforth described as being wrong and you readily agreed.

Did you participate in any of those activities?

Mr. MALEK. No, sir, I did not do any of the things that I told Senator Danforth I regard as totally wrong. I did not ask for any grants to be awarded to any supporter of President Nixon. I did not request that political supporters be appointed to career positions. I did not do those things.

Senator LEVIN. This memo doesn't suggest that grants be made to the President's supporters, and lets be very clear for the record now what memo we are talking about. We are talking about a memo attached to your letter to Haldeman dated March 17, 1972.

Mr. MALEK. Yes, sir.

Senator LEVIN. That memo does not suggest grants be made to the President's supporters?

Mr. MALEK. I don't think it does.

Senator LEVIN. Does that memo suggest that people who are not the President's supporters be punished in any way?

Mr. MALEK. I don't think it does, Senator.

Senator LEVIN. Does that memo suggest that in any way the White House be insulated against this program or be separated from it, and it would be a denial of any connection between the White House and this program?

Mr. MALEK. Yes; I think it does suggest that.

Senator LEVIN. That part it does suggest. Now, let me read to you on page 8314 of the Watergate hearings, "Suggested Action." By the way, I am absolutely astounded that you indicate that the responsiveness program is not even a program, that that is elevating, in your words.

Mr. MALEK. I don't think the existence of a memo establishes—it establishes there was a memo. It doesn't establish there was a well orchestrated program, Senator.

Senator LEVIN. I will get to page 8314 a little later:

Cabinet meeting to introduce program, complete April 1; briefing of departmental contacts on program guidelines, April 8; submission of departmental plans, April 22; White House review of plans, April 29; first progress reports, June 3.

Do you call that a nonprogram?

Mr. MALEK. Senator, these things did not take place. This is a memorandum that was prepared and discussed and felt to be far overblown and beyond what I intended or Mr. Haldeman intended. We never introduced this in a Cabinet meeting.

Senator LEVIN. You gave it to every Cabinet officer, didn't you, or most of them?

Mr. MALEK. I would say probably the majority. I don't know if we did everyone.

Senator LEVIN. Most of the Cabinet officers you met with personally on this program?

Mr. MALEK. Yes, sir.

Senator LEVIN. But it's not a program.

Mr. MALEK. I think we are arguing semantics here. I think it was a plan. It was carried out to a very modest extent.

Senator LEVIN. You submitted progress reports.

Mr. MALEK. One or two, yes, sir.

Senator LEVIN. Then you left the operation.

Mr. MALEK. Yes, sir, and I recommend after I left that it be wound down because I didn't see any value or benefit, and I thought it was a waste of time. I think the record shows that as well.

Senator LEVIN. Thank God.

Page 8314, "Suggested Action." You wrote:

As indicated above, two fundamental steps should be taken to strengthen departmental responsiveness: (1) gear up departments to systematically seek out and act on opportunities under the general supervision of the White House; and (2) centralized contact of the department on politically sensitive operating matters in order to improve coordination and effectiveness. Carrying out these steps will naturally require action by both the departments and White House.

Guidelines. As a first step, the departments should be given clear guidelines covering the political priorities, the types of operating decisions which are to be included in the program and the procedures for planning and tracking progress.

The political priorities would be spelled out in terms of key states and major voting bloc groups which departmental action could have an impact. The departments will be updated as needed, as the political priorities evolve.

Next, the types of activities covered under this program would be discussed. The major ones, of course, are positive decisions (e.g., project grants, contracts, loans, subsidies, procurement and construction projects), and negative action (e.g., taking legal or regulatory action against a group or governmental body, major cutbacks in programs and relocation of department operations). The departmental contact would naturally not be expected to controll all of the possible positive actions throughout his department. Rather, the effort should be focused on those subagencies where the payoff is the greatest. In Commerce, for example, this means the Economic Development Administration, Regional

Action Planning Commission, Office of Minority Business Enterprise, National Oceanographic and Atmospheric Administration and Maritime Administration. In some cases, the departments will have to tighten controls over decisions in the high payoff areas and over the announcements process.

Is there anything wrong with that so far?

Mr. MALEK. Senator, we have been through this——

Senator LEVIN. I want to know if there is anything wrong because we are interested in right and wrong, Senator Danforth put his finger right on it. Is there anything wrong with that so far?

Mr. MALEK. If it were interpreted in a way that awarded grants to friends and penalized those who weren't friends, it would be absolutely wrong.

Senator LEVIN. Is that the only interpretation that could be made of that? Is there any other interpretation which anyone can make of that?

Mr. MALEK. Yes, sir, let's go back to where you started, if we may. The intent here, as it states, is to gear up the departments to systematically seek out and act on opportunities. Here we were trying, as I stated several times, to familiarize the department appointees with where the political priorities were, where the key States were, what the key cities within those States were and the key voting groups within those States.

Senator LEVIN. What about the negative actions, taking legal or regulatory actions against a group or governmental body, is there anything wrong with that?

Mr. MALEK. Yes, sir, absolutely. If it were done, it would be positively wrong.

Senator LEVIN. Any wrong with writing that?

Mr. MALEK. Yes, sir.

Senator LEVIN. So there is something wrong with this memo.

Mr. MALEK. Sure.

Senator LEVIN. You shouldn't have written this memo.

Mr. MALEK. Senator, I fully agree with you.

Senator LEVIN. That's progress.

On page 8317:

Three possible drawbacks have been cited regarding this proposed program.

1. Adverse Publicity. The most significant drawback of the program is, of course, the risk of adverse publicity. Naturally, steps would be taken (1) to ensure that information about the program itself and the departmental plans will not be leaked, and (2) keep the President and the White House disassociated with the program in the event of a leak.

First, written communications would be kept to a minimum. There would be no written communications from the White House to the departments. All information about the program would be transmitted verbally. The only written material submitted by the departments to the White House would be the plans. These would be in brief outline format and only two copies would be permitted—one for the White House and one for the departmental contact. Progress reports would be verbal.

Second, the documents prepared would not indicate White House involvement in any way. Also, oral and written communications concerning the program within the department would be structured to give the impression that the program was initialed by the department head without knowledge of the White House.

Is there anything wrong with that?

Mr. MALEK. I think the general idea to disassociate the White House from a sensitive political program is not a novel idea or one that is

altogether wrong. I think, however, that what is wrong is to be involved in any program where you have to take that stance in the first place.

Senator LEVIN. Is there anything wrong with structuring a false impression?

Mr. MALEK. Structuring false impression?

Senator LEVIN. You are structuring impressions that the programs be initiated by the departments without the knowledge of the White House; that is a false impression. Is there anything wrong with structuring a false impression?

Mr. MALEK. Yes, I think there is something wrong.

Senator LEVIN. Is that also a wrong that was perpetrated by this memo?

Mr. MALEK. Yes, sir.

Senator LEVIN. Mr. Chairman, I am out of time. I would suggest I have some additional questions of the witness, but if it is appropriate to the Chair and others, I would be willing to hear from the other witnesses and perhaps to recall this witness. There are other witnesses I know may have something to shed on this, some light to shed. We perhaps should have their testimony to help us further question this witness.

Senator MATHIAS. Let's get through this round and then we can make a decision.

Senator LEVIN. I meant after the round.

Senator MATHIAS. Senator Danforth?

Senator DANFORTH. Looking at Mr. Hamilton's testimony, he will testify that:

> Mr. Malek's intentions were also made clear in a June 26, 1972, memorandum entitled "Black Vote Campaign Plan" to John Mitchell, Head of the Committee to Re-elect the President. Under the heading "Intensify Efforts to Utilize Government Grants and Loans," Mr. Malek wrote:

And then the testimony quotes the memo as follows:

> Effective allocation of new grants requires close coordination between the White House and the campaign team. As a first step, I have asked Bob Brown—

Who is identified by Mr. Hamilton as of the White House staff—

> to identify all major sources of grants and loan moneys which could be allocated to blacks. Then Jones and Sexton, working through their,

Which is identified as campaign—

> field organization, will be responsible for finding recipients in key cities who will be supportive of the re-election effort.

Now, Mr. Malek, I don't think a person who is a part of Watergate should necessarily have to go through his entire life with that cloud over his head. I don't think that there should be any disbarment from future Government service, public service, positions of trust and responsibility just because at one time something was done that was wrong. But this is clearly an indication that at least at the time the memo was written, an effort would be made with respect to the black vote to channel Federal grants to recipients who will be supportive of the reelection effort.

There is no other way to read that, is there?

Mr. MALEK. Senator, it's the only way to read it.

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Senator DANFORTH. And it's wrong, isn't it? You regret it, let's put it behind us, that is all I am saying.

Mr. MALEK. Yes, sir, I think it is wrong. I would like to point out—I do think it is totally wrong—I would like to point out in this particular memo, it is a rather unique one in the exhibits. I think I pointed out to the committee at the time of this hearing some 9 years ago, this is not a memo that I ever have sent or approved. Most of the memos in exhibits you find do have my initials on them. This one was never signed. It was done as a draft for me which I did not approve of.

But nevertheless, the content, I would totally agree, is wrong.

Senator DANFORTH. It's wrong. Any role that you would have had in such an effort—and we can debate precisely what that role is and how things should be construed—it is my understanding, as you testified at the outset, you said, "I feel the effort was a mistake."'

Mr. MALEK. Yes, sir.

Senator DANFORTH. "And I regret my role in it."

Mr. MALEK. Yes, sir.

Senator DANFORTH. It's just as simple as that, isn't it? We could go through every page and every detail of every memo that was ever written, and I would hope that maybe you wouldn't quibble so much as to exactly what construction should be put upon them, because we can just get into a bog quickly in debating exactly what happened and who did what and who visited with whom and on and on and on, and it was 10 years ago. But if we are ever going to put this thing behind us, the way to put it behind us is to say, yes, we know what we mean, we are talking the same language, we know what we mean by responsiveness programs, by misuse of a public trust, by using a government office in order to win a political campaign: That was true of the Nixon administration, it was true of the Watergate era, it was true of the responsiveness program, you were a part of the responsiveness program, you admit that it was true, you admit that it was wrong, you admit that it was a mistake, you regret it and you will never do it again, and that is my understanding of your testimony. Am I wrong or right?

Mr. MALEK. You are absolutely right, Senator.

Senator DANFORTH. Thank you.

Senator MATHIAS. We will suspend a minute for Senator Pryor.

Senator PRYOR. Mr. Chairman, I am not going to take much time of the committee because I know Mr. Hamilton is ready to testify. I would like to ask this question:

Once again, Mr. Malek, repeating your statement, "I am against political activity carried out at the taxpayers' expense," I would like to ask this question. Do you recall in the fall of 1972 that certain Government agencies—HEW, HUD, DOL, Action, OEO, Veterans' Administration—were asked to produce brochures directed to the elderly population of America costing $263,000 in accordance with lists and preprinted mailing labels supplied by the White House? Do you remember this episode?

Mr. MALEK. Senator, I recollect only from going back through the record in preparation for this hearing and in going through the record, I find that I left the White House staff to be the deputy director of the Committee to Re-elect the President on June 30 and that this activity,

as you state, took place in the fall under the direction, not of anyone who reported to me, but someone who worked for Mr. Colson.

Senator PRYOR. What about Mr. Novelli, do you recall him?

Mr. MALEK. Mr. Novelli was involved in the campaign advertising effort, and I believe worked under Mr. Magruder's direction.

Senator PRYOR. He was with the same organization at this time I understand you were with.

Mr. MALEK. Yes, sir.

Senator PRYOR. Let me tell you what Mr. Novelli wrote relative to this particular elderly brochure at a cost of $263,000, I might add once again, and I quote Mr. Novelli from his memorandum:

> The brochure produced and distributed by government agencies and departments will be important in persuading older voters to reelect the President.

Do you remember anything like that?

Mr. MALEK. Again, sir, only from having gone through the record in preparation for this hearing.

Senator PRYOR. All right. Do you remember in August of 1972, relative to this matter, a memorandum you sent to Clark MacGregor, do you remember such a memorandum?

Mr. MALEK. A memorandum that I sent to Clark MacGregor in August of 1972?

Senator PRYOR. Yes.

Mr. MALEK. No, sir.

Senator PRYOR. Let me read from the memorandum that you sent Mr. MacGregor, and I quote—this is not from someone else, this is from you, Mr. Malek—and I quote:

> The older Americans project team has been particularly imaginative in the use of administration resources to support the reelection. The first of the brochures is off the presses and mentioned the President prominently, not surprising since we control the content of each brochure.

Watergate Report, pages 419 to 421.

Is that using taxpayers' money to promote political activity, Mr. Malek?

Mr. MALEK. Well, Senator, I don't recall the memo or the brochure, but as you have read it to me, if that is, in fact, a correct characterization, that strikes me as being highly improper.

Now, what I don't know is whether it was a brochure that was being prepared anyhow. Many brochures are issued with the incumbent President's picture and sent out by various agencies, and whether this Colson aide was taking credit for it, and we were passing on, I really don't recall how it came about, but it was as you state, I would agree it is an improper use of taxpayers' money.

Senator PRYOR. What is right?

Mr. MALEK. Sir?

Senator PRYOR. Have you changed your philosophy of Government since that period of time?

Senator MATHIAS. Let the Chair interject and say I think Mr. Malek had an educational experience.

Senator PRYOR. We all had an educational experience in this country, I would only submit to the Chairman.

Who reviews the nominations at the White House today for a position such as yours, Mr. Malek?

Mr. MALEK. Well, Senator, I am not intimately familiar with the entire process there, but I believe nominations are reviewed and cleared by the Office of Congressional Relations, by the General Counsel's Office which checks into conflicts and other suitability issues and, I imagine, by the substantive office to serve with that particular area.

Senator PRYOR. Is one of those individuals Fred Fielding, White House counsel?

Mr. MALEK. Mr. Fielding is the counsel to the President, and I would think he probably would be.

Senator PRYOR. He was John Dean's deputy at the Nixon White House?

Mr. MALEK. Yes, sir, that is correct.

Senator PRYOR. Mr. Pendleton James, your former assistant, he now recruits for the White House; is that correct?

Mr. MALEK. Yes, sir.

Senator PRYOR. Mr. Chairman, I have other questions, but I am not going to ask them now. I will refrain at this moment from asking those questions.

Senator MATHIAS. Perhaps we ought to act like judges and have a huddle on the bench now as to how we want to proceed. It is my sense that the committee would like to hear from Mr. Hamilton at this point; is that agreeable?

Senator LEVIN. Call Mr. Malek back.

Senator MATHIAS. Let me further ask, since we have this moment of interruption, how many members of the committee who are here now would be available to come back this afternoon?

Senator PRYOR. I could.

Senator MATHIAS. I should say, I have difficulties myself, because I have appointments this afternoon. I understand Senator Danforth cannot; Senator Levin cannot.

Senator PRYOR. I don't want to assume this awesome responsibility single-handedly, Mr. Chairman.

Senator MATHIAS. Let us determine if any other members of the committee are available for this afternoon during the course of Mr. Hamilton's testimony, otherwise, it is clear we would have to set a further session.

Senator PRYOR. Mr. Chairman, a point of inquiry. I know that Mr. Hamilton is here, and he has gone to great trouble, I assume, to be here this morning. Is it possible Mr. Hamilton might come back at a later date? I think we are getting into some very significant things here. Is that a possibility?

Mr. HAMILTON. Senator, it is, of course, a possibility. It depends on the date.

Senator PRYOR. Are you local?

Mr. HAMILTON. I am local.

Senator MATHIAS. Mr. Hamilton, what would you anticipate that your statement would take in terms of time?

Mr. HAMILTON. In terms of time, Mr. Chairman, I think if I read fast, which is somewhat difficult for me sometimes, I can probably get through in 20 minutes.

Senator MATHIAS. That would not allow for any questions before we should break at 12:30. With the understanding that there would be probably limited time for questions, Mr. Malek, we will ask you

to step back for a moment but to remain available to the committee. We will know by the time Mr. Hamilton has delivered his statement whether or not we will be able to meet this afternoon and will so advise you.

Mr. Hamilton, due to the nature of the testimony that you are about to give, and to the fact that Mr. Malek was sworn, I suggest we ask you to take the oath.

Do you swear that the testimony you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. HAMILTON. I do.

TESTIMONY OF JAMES HAMILTON, FORMER ASSISTANT CHIEF COUNSEL TO THE SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. HAMILTON. Mr. Chairman, members of the committee, I appear here this morning at the committee's request to discuss Mr. Malek's role in matters investigated by the Senate Watergate Committee.

I must begin my testimony with a caveat. I do not presume to be an authority generally on Mr. Malek's career, particularly his activities since Watergate. My testimony is limited to a summary of certain factual findings regarding Mr. Malek and others made by the Watergate Committee and, second, a brief discussion of certain conclusions that the committee reached.

These matters are dealt with in chapter 3 of the Watergate Committee's report, which is entitled, "Use of the Incumbency Responsiveness Program."[1] I suggest that the members of this committee read that chapter which contains over 90 pages of findings and conclusions. It was prepared after months of investigation during which over 150 witnesses were interviewed and thousands of documents reviewed. The Watergate Committee unanimously adopted the findings and conclusions in this chapter.[2]

My statement this morning, Mr. Chairman, is footnoted to that chapter, and that chapter is footnoted in great detail to the evidentiary record before the Watergate Committee.

From October 1970 until July 1972, Mr. Malek was a Special Assistant to President Nixon. In that position, he had responsibility for the White House Personnel Office and also served, in his words, as a "management consultant or troubleshooter for the President and Mr. Haldeman." In July 1972, Mr. Malek became deputy director of the Committee to Re-elect the President.[3]

While in the White House, Mr. Malek was the chief architect and promoter of a plan known as the responsiveness program. There is little doubt as to the nature of that program, for it was set forth in elaborate detail in documents written by Mr. Malek and others.

Simply stated, the objective of the responsiveness program was to employ the resources of the Federal Government to relect Mr. Nixon.

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[1] The Final Report of the Select Committee on Presidential Campaign Activities, United States Senate (June 1974), pp. 361–444, *hereinafter cited as* "Report, p. ———."

[2] The Watergate Committee record contains transcripts and documents supporting the findings and conclusions in chapter 3. See Executive Session Hearings Before the Select Committee on Presidential Campaign Activities of the United States Senate, Books 18, 19. I suggest that this Committee sample the principal documents to gain an understanding of the conduct that concerned the Watergate Committee.

[3] Book 18, pp. 8199–8201.

To use Mr. Malek's term, it was an attempt to "politicize the executive branch" to insure that Mr. Nixon achieved a second term.[4] The plan was developed at Mr. Haldeman's direction and it received his approval.

Some actions contemplated under the responsiveness program were more or less traditional and noncontroversial. Political considerations were to affect decisions as to the issues and programs the administration would stress and decisions as to how its activities would be communicated to the voting public.

But other planned activities were more suspect. Under the program, the needs of the President's reelection campaign would influence, among other things, decisions concerning government "grants, contracts, loans, subsidies, procurement, and construction projects;" decisions as to "taking legal and regulatory action;" and personnel decisions, even, apparently in regard to protected "career" positions.[5]

Mr. Malek placed particular emphasis on the use of Federal funds, as demonstrated in a March 17, 1972, memorandum he wrote to Haldeman. After applauding a dozen politically favorable grant decisions involving roughly $1 million, which would not have been made without White House intervention, Mr. Malek continued:

> Nevertheless, in spite of this achievement, the potential is much greater. In the Commerce Department, for example, there is nearly $700 million in funds remaining in this fiscal year and over $700 million in next fiscal year which could be redirected in some manner * * *. Even if only 5 percent of this amount can be rechanneled to impact more directly on target groups or geographic areas, it would be a substantial increase over the current efforts.[6]

Mr. Malek's intentions were also made clear in a June 26, 1972, memorandum entitled "Black Vote Campaign Plan" to John Mitchell, head of the Committee to Re-Elect the President. Under the heading "Intensify Efforts To Utilize Government Grants and Loans," Mr. Malek wrote:

> Effective allocation of new grants requires close coordination between the White House and the Campaign team. As a first step, I have asked Bob Brown (of the White House staff) to identify all major sources of grant and loan moneys which could be allocated to Blacks. Then, Jones and Sexton, working through their (campaign) field organization, will be responsible for finding recipients in key cities who will be supportive of the reelection effort.[7]

Mr. Chairman, this morning, Mr. Malek testified that this memorandum was a draft memorandum that he, I believe he said, had not actually sent to Mr. Mitchell. If the committee will look at pages 377 and 378 of the Watergate Committee report, the record there reveals that, from Clark MacGregor's file at the Committee to Re-Elect the President, a copy of this memorandum that was initiated by Mr. Malek was obtained.

Mr. Malek considered the responsiveness program a highly significant undertaking. He wrote that, "This is potentially one of the most productive activities we will undertake."[8] And he set in motion an elaborate series of briefings to carry the precepts of the responsiveness program to key Government and campaign officials.[9]

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[4] Report, p. 371.
[5] Report, pp. 368–69 and pp. 416–19.
[6] Report, p. 368.
[7] Report, p. 377.
[8] Report, p. 371.
[9] Report, pp. 378–380.

Mr. Malek testified that, in his briefings with department and agency chiefs, he used color-coded maps depicting target groups and geographic areas where Government resources should be concentrated for campaign purposes.[10]

In addition, each department was asked "to develop a plan to insure (that) operating decisions reflect (re-election) priorities to the greatest extent possible." [11]

Mr. Malek, however, recognized he was treading on sensitive ground and that his operation should be kept secret. He advised Mr. Haldeman that:

> The most significant drawback of the program is, of course, the risk of adverse publicity. Naturally, steps would be taken, one, to insure that information about the program itself and the department plans would not be leaked and, two, to keep the President and the White House disassociated with the program in the event of a leak. [12]

Numerous actions were taken by Mr. Malek and others to implement responsiveness program concepts. These are discussed in great detail in the Watergate Committee's report, and I summarize here only a few.

Substantial evidence showed that a campaign official was signing off on—that is, approving or disapproving—Government grants and contracts to Spanish-speaking groups.[13] Documents before the Select Committee indicated that Mr. Malek was generally aware of this activity.[14]

The evidence also showed that, with Mr. Malek's general knowledge, serious efforts were made to award grants and contracts to Spanish-speaking administration friends and to deny them to its political opponents.[15] In one instance, a $200,000 OEO evaluation and assistance contract was awarded to an administration supporter without the demonstration of need required by OEO regulations and after a decision by the relevant project division not to fund the contract.[16]

In a May 2, 1972, memorandum to HEW Secretary Robert Finch, Mr. Malek claimed that as a result of "meetings and follow-up actions which I have instigated," a $150,000 HEW grant was awarded to a prominent black leader. This leader, Mr. Malek wrote, would "now * * * mak(e) time available to the re-election efforts" and "has agreed to do speaking on our behalf and * * * to talk to key black leaders in an effort to gain their loyalties." [17]

Mr. Chairman, the Watergate Committee's investigations indicate that Mr. Malek's description of these events may have been imprecise, but this committee may nevertheless find his statements relevant to his present determination.

Evidence showed that a White House aide, who had worked for Mr. Malek, and a campaign official frequently participated in the selection process for nonbid GSA architectural and engineering design contracts. The evidence demonstrated that the campaign official's pref-

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[10] Report, p. 379.
[11] Report, p. 369.
[12] Report, p. 370.
[13] Report, pp. 382, 383.
[14] Report, p. 383.
[15] Report, pp. 384–391.
[16] Report, pp. 384–385.
[17] Report, pp. 405–406. While the Watergate Committee's investigation indicated that Mr. Malek's description of these events may have been imprecise, this committee may nonetheless find his statements relevant to its present determination.

erences as to which firms should be chosen were given considerable weight by GSA officials and apparently never were rejected.[18]

In a responsiveness program progress report to Mr. Haldeman, Mr. Malek claimed that after an inquiry, the Chairman of the EEOC reversed his position and agreed not to sue the University of Texas for discrimination in hiring faculty, an action, Mr. Malek wrote, that "could be disastrous in Texas." [19]

Mr. Malek testified that the suggestion that a legal action had been stopped constituted puffing on his part. Again, this committee may consider this statement pertinent for its present purposes. And, frankly, Mr. Chairman, I included this particular incident because I think it has something to say about the question of character.

The evidence also indicated that the White House Personnel Office, which Mr. Malek supervised, made various attempts to insure that political factors were considered in hiring persons for protected career Government positions.[20]

And the evidence showed that, after White House pressure and with Mr. Malek's knowledge, a $1,540,000 Labor Department contract and a $399,839 OEO grant, both relating to programs for the elderly poor, were awarded to an organization created at the initiative of the White House. As to the OEO grant, there was evidence that the recipient was totally unqualified to do the job, that the grant served an unnecessary function, that the grant was "weak" and "poorly designed," and that the project's budget was "grossly excessive." Subsequently, the GAO strongly criticized the grantee's conduct concerning both the Labor and the OEO awards and the organization's funding was not renewed.[21]

To be fair, though, Mr. Chairman, it should be recognized that the responsiveness program did not accomplish as much as Mr. Malek and others apparently anticipated. This was so because various officials resisted what they considered improper or inappropriate pressures by White House and campaign officials. Significantly, no department, as far as we could learn, actually submitted the departmental responsiveness plans requested by Mr. Malek.[22]

The Watergate Committee has harsh words for the concept and the conduct I have discussed. It wrote that responsiveness activities "not only appear to contravene the fundamental notion that our Nation's citizens are entitled to equal treatment under the laws, but also raise questions as to the applicability of specific Federal civil and criminal statutes," including several statutes that I will now mention.[23]

The committee observed that the Hatch Act would seem to prohibit many of the activities described in chapter 3 of its report.[24] That statute says that an employee of an executive agency may not "use his official authority or influence for the purpose of interfering with or affecting the result of an election."

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[18] Report, pp. 412–413.
[19] Report, pp. 410. Mr. Malek later testified that the suggestion that a legal action had been stopped constituted puffing on his part. Again, however, this committee still may consider his statements pertinent for present purposes.
[20] Report, pp. 116–119.
[21] Report, pp. 424–428.
[22] Report, pp. 321–336.
[23] Report, p. 438.
[24] Report, p. 438.

The committee also referenced a provision which makes it a crime for a Government employee connected with the awarding of Federal grants or loans to use his official authority to "affect * * * *the election of any candidate for the office of President." [25]

The committee noted that, under various Executive orders, an applicant for a career Government position could not be treated favorably or discriminated against on the basis of his political affiliation.[26]

And, significantly, the committee stated that "the question is raised whether certain conduct described in this chapter may have amounted to a conspiracy to defraud the United States under 18 U.S.C. section 371." [27] That statute, as interpreted by the lawful functions of Government.

Mr. Chairman, I wish to make clear that the committee did not specifically find that Mr. Malek or anyone else had committed violations of law. That, of course, would not have been a proper legislative function. But the committee's concern for the conduct it discovered did prompt it to raise questions as to the relevance of the laws just discussed and others.

The Watergate Committee was met with the claim that the responsiveness program was no more than politics as usual and thus was not improper. To this contention, a unanimous committee responded as follows:

> The committee rejects the proposition that much of the conduct described in this chapter should be viewed as acceptable political practice. The Responsiveness conduct involved the diverting of taxpayers' dollars from the primary goal of serving all the people to the political goal of re-electing the President. To condone such activity would display a limited understanding of the basic notion that the only acceptable governmental responsiveness is a responsiveness to the legitimate needs of the American people.[28]

Mr. Chairman, the events that the Watergate Committee investigated and that I have discussed took place in 1972 and before. Mr. Malek now says his prior conduct was a mistake and that it was wrong. I agree with that, and I welcome his comments. Nonetheless, in my view, the committee should review his prior conduct as it considers whether to confirm his nomination.

I think it is fair to say that his characterization of his prior conduct is different from that made by the Watergate Committee.

I appreciate the committee's attention. I will be pleased to answer any questions the committee may have.

Senator MATHIAS. Mr. Hamilton, where do you feel that your testimony deviates from that which Mr. Malek gave to the committee this morning?

Mr. HAMILTON. Mr. Chairman, the Watergate Committee found, I believe, and it's a finding I agree with, that there was an intentional effort, for example, to redirect grants for political purposes, that there was effort made to award administration friends and to penalize administration opponents.

If I understood Mr. Malek correctly, he disagrees with that characterization of the responsiveness program.

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[25] Report, p. 439.
[26] Report, p. 441.
[27] Report, p. 438.
[28] Report, p. 441.

Senator MATHIAS. As I recall his testimony, he said that aspect never was implemented; was that not his testimony?

Mr. HAMILTON. I believe that is close to his testimony, and I would disagree with that based on our findings, Mr. Chairman.

Senator MATHIAS. I am trying to pinpoint this so that we get the point of contention just as clearly focused as possible.

Mr. HAMILTON. Mr. Chairman, in the Watergate Committee report there are pages of discussion as to grant activity concerning the elderly and grant activity concerning Spanish-speaking groups, to cite two examples. I think the committee would be well advised to read what the Watergate Committee wrote about 8 years ago to see if that squares with Mr. Malek's testimony this morning.

Senator MATHIAS. Let me just ask you one further question, and then call on Senator Pryor. Mr. Malek, very frankly, is saying he thinks the whole program was a mistake. He is saying if he had to do over again, he wouldn't do it. In response to Senator Pryor, he said that, philosophically, he thought it was ill-conceived, wrong. Now, if we believe that testimony, what more can he do to correct the record?

Mr. HAMILTON. Mr. Chairman, I think contrition is important and I think it is a factor that should be considered by this committee. And I happen to agrere with the comments that Senator Danforth made that Watergate should not necessarily forever tarnish or impede someone's career. I would be happier with Mr. Malek's testimony if he had admitted that the thrust of the responsiviness program was as the Watergate Committee found.

With all deference, I think the characterization of the program he makes is too benign. In the committee's view, it was much more dangerous than that.

Senator MATHIAS. That is a helpful answer. I think it helps to define for the committee just what your concern is and brings down the difference in the interpretation of that episode with some understanding of limits. Senator Pryor?

Senator PRYOR. Mr. Hamilton, do you recall, and I know it's been a decade, the involvement or the relationship of Mr. Harry Dent to the responsiveness program in the White House during that period?

Mr. HAMILTON. Senator, it has been at least 8 years——

Senator PRYOR. I am asking you an unprepared question.

Mr. HAMILTON. I think I can answer your question. To my recollection, Mr. Dent was not involved in the responsiveness program. I believe Mr. Dent wrote a momarandum that might be considered a precursor of the responsiveness program where certain of these notions were spelled out.

If my recollection serves me right, that memorandum is referred to in chapter 3 of the Watergate Committee report.

Senator PRYOR. Mr. Hamilton, I would just like to say I have no other questions, but you have done a fine service today by coming here, and as one Senator and member of this committee, I would like to sincerely express my appreciation.

Senator MATHIAS. I join with Senator Pryor and add that it is not easy to come in and give negative testimony. It is always easier to come in and say pleasant things. However, it's a citizen's duty to say what you think. Our entire Government is founded on that concept. The basic justification for the first amendment is that facts be exposed

to public view and public discussion and to bring about a public decision.

I think you have carried out that citizen's duty today. Thank you for being here. You say that you are available should the committee look forward to hearing from you again?

Mr. HAMILTON. Yes, thank you, Mr. Chairman.

Senator MATHIAS. It would appear, after some communication with the offices of other members, that we are not going to be able to have a session this afternoon. So at this point, Mr. Malek, I think the best thing is for us to recess subject to call of the Chair, and we will arrange with you for a convenient time to continue the hearing.

The committee will stand in recess subject to call of the Chair.

[Whereupon, at 12:30 p.m., the committee recessed, subject to call of the Chair.]

NOMINATION OF FREDERIC V. MALEK

TUESDAY, MARCH 23, 1982

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 9:30 a.m., in room 3302, Dirksen Senate Office Building, Hon. Charles McC. Mathias, Jr., presiding.

Present: Senators Mathias, Pryor, and Levin.

OPENING REMARKS OF SENATOR MATHIAS

Senator MATHIAS. The committee will come to order.

We resume today the hearings on the nomination by the President of Fred Malek to be a member of the Board of Governors of the U.S. Postal Service.

Mr. Malek, we are glad to welcome you back to the committee. I would remind you that the oath that you took at the start of these hearings is in effect throughout your testimony in these proceedings.

In order to expedite the hearings, I am going to move right to a few questions on your views of the Postal Service, and will omit making any statement of my own at this time.

During the first hearing on your nomination, you outlined for the committee your background and the specific experience that you believe qualifies you for serving on the Postal Service Board of Governors.

How would you characterize your general philosophy with respect to the Postal Service and its role in the Nation's affairs?

Let me perhaps expand that question just a little by saying that it is clear that there is at least the mechanical capacity within the private sector to convey written materials and parcel post.

But there is a factor of communication within the Nation which is very much within the province of the National Postal Service. A National Postal Service makes it possible, for example, for the mailing of magazines, particularly educational magazines, intellectual magazines, that are not profitmaking but operate right on the margin. These publications probably could not survive if they were forced to resort to private sector charge and delivery.

With this background in mind, what is your philosophy about what the Postal Service is supposed to do in the Nation?

TESTIMONY OF FREDERIC V. MALEK, NOMINEE TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE

Mr. MALEK. Mr. Chairman, the Postal Service performs a public service in my view. I think it is stated in the legislation creating the

service that it shall provide a maximum degree of effective and regular postal service to rural communities. Here is an area where perhaps the revenues derived from the mails are not enough to fully cover the costs, but the enabling legislation is such that the Postal Service is there to provide this service.

I think this is a very appropriate role for hte Postal Service. It is a service that binds the country together and performs a function and a service for all citizens no matter where they live, and I think all of our citizens have come to rely on it.

In this respect, since it is providing a public service, I think it is very appropriate that it is a Government entity.

At the same time, I believe that every commercial service that utilizes the mails should pay its own way. And I think this is also the intent of the legislation and of the policies of the Postal Service; anyone who wishes to use the mails for profitmaking or other commercial purpose should be willing to pay the cost. But in essence, it is a public service providing a service to all the citizens of this country.

Senator MATHIAS. The Atlantic magazine may not be David Stockman's favorite publication, but that kind of magazine probably couldn't survive if there were not Postal Service. What about that function?

Mr. MALEK. I think there are probably a number of publications that could not survive without the Postal Service and it does provide a vital communications linkup in our country. Most nationally distributed media or other types of communications are highly dependent on the Postal Service and I think that if we are going to have an informed citizenry, if we are going to have the ability for the people in this country to get the information they want and desire, then the Postal Service is of essential service.

Senator MATHIAS. What do you see as the major problems of the Postal Service today?

Mr. MALEK. Mr. Chairman, I think the major problem of the Postal Service boils down to one word—economics. I am very concerned that the costs continue to rise despite the very best and very effective efforts of the Postal Service to improve productivity.

Costs have continued to rise. We saw an increase last year in the cost of first class postage to 20 cents. While in my view this was fully justified by the costs, it does raise the issue of the containment of these costs and prevention of further increases in the cost of mail. I think this is a primary issue facing the Postal Service today, how do we keep costs down how do we trade off the various services that we must provide with the costs entailed and keep down the cost of mail to the American consumer?

Senator MATHIAS. You say the principal problem is economics. Does that mean that you think the Postal Service can reasonably expect to be self-sufficient? Do you think we ought to press for the Postal Service to be self-sufficient or do you think there always ought to be some margin there representing the general public interest of the Service?

Mr. MALEK. Mr. Chairman, I think the Postal Service can be self-sufficient with a couple of exceptions. I believe there are three provisions in the law for providing services that are not fully covered by revenues which should be met by general appropriations.

For example, mail services to the blind and the like, and some of these services which are outlined in the legislation should be supplemented by appropriation. But other than these services that are mandated by the law, I think the Postal Service can and should be self-sufficient and should be operated on no less than a break-even basis.

Senator MATHIAS. So you would limit, in effect, the subsidized service to those that are set forth in the law?

Mr. MALEK. Yes, sir.

I would and I think with continued productivity improvements, with improved technologies, and with effective management that the Postal Service can achieve this, and I believe it is moving very much in this direction.

Senator MATHIAS. We hear a lot about productivity improvements. You have just mentioned it. You think that is not a mirage?

Mr. MALEK. No, sir; I don't think it is a mirage at all. I think if you look at the record of the Postal Service over the past 5 years, we can see they have done a pretty good job of improving the productivity of the Service. The number of pieces of mail handled per employee have increased rather dramatically. At the same time, they have introduced a number of technological innovations to bring this about. So it hasn't been without cost. But I think more can be done.

I served in several Government positions and it has been my experience that in most large organizations, particularly those that do not have a profit-loss responsibility, there is not enough incentive to save or to conserve.

My experience has been that people are not purposely wasteful, certainly, but when there is a tradeoff between cutting back or doing without something, and requesting more funds, they will go for more funds 9 times out of 10. There is simply not a penalty for acting in any other way since you are not measured by a profit and loss statement each month, and the result is a continuous escalating pressure on costs.

This can be overcome, however, with tight management, with good financial controls, and with continued emphasis on productivity measures.

I would add to that, Mr. Chairman, that there are few organizations, I think, that work in which efficiencies cannot be achieved. I don't think the Postal Service is alone in this respect.

Normally, it doesn't come about by simply having people work harder or work faster. I think probably the people in the Postal Service, the employees, are working at a very good pace but usually it comes by further technological innovation, by forecasting workloads, scheduling work hours to meet these forecasts and other techniques such as this. And I would hope that this would be a prime objective of the Postal Service in the years ahead, to continue to affect these productivity improvements.

Senator MATHIAS. Are you familiar with the growth of the volume of mail handled? That is certainly one of the measures? What has been the curve?

Mr. MALEK. Sir, the curve has been a steady increase with the increase being larger in years when the economy was buoyant and less so in years when the economy was not buoyant. I don't recall the exact figures. But I would say that the volume of mail has increased some-

where in the 5 percent per annum range as I recall the material I have read.

Senator MATHIAS. The volume has increased astronomically, which is one of the reasons that the overall costs have gone up. Do you know the current number of items of mail that are now being carried by the Postal Service?

Mr. MALEK. I don't have it at the tip of my tongue, Mr. Chairman, but I do recall seeing it in the recent report on operations of the Postal Service and it is an astronomical number.

Senator MATHIAS. I don't think a member of the Board of Governors is required to memorize all the statistics of the Postal Service. The important thing is that he should know where to find it. But I do think it is an important statistic for us to keep in mind and throughout this hearing to recall to the general public—that this has now gotten to be a figure of gigantic proportions, far beyond the scale of anything that was dreamed of a generation ago.

Mr. MALEK. Mr. Chairman, the number of pieces of first-class mail in 1981 was 61 billion, according to the Postal Service statement on postal operations; 61.4 billion pieces of first-class mail and then, of course, there are added billions of other types of mail, presort letters, 8.8 billion; second class and controlled circulation, almost 10 billion; third-class mail, 33.6 billion. You are dealing in total here with 110 billion piece of mail in 1981. And this is an increase of 3.6 percent over 1980. And the mail is projected to continue to increase at a rate in excess of 3 percent per annum for 1982 and 1983.

So you are absolutely correct, Mr. Chairman, the proportion is incredibly large, and continues to grow.

Senator MATHIAS. Arithmetic was never my forte, but if you estimate the population of the United States, 220 million people, that means that the number of first-class letters carried is slightly less than 300 for every man, woman and child in the United States. This is on the average of one a day for every person every day of the year, excluding Sundays. So it is a staggering volume of mail.

Mr. MALEK. Yes, sir.

Senator MATHIAS. Of course, as you suggested, one can't forget about all the other classes of mail in addition to the first-class mail. If my personal mail is any example, I get more of the other classes than I do of first-class mail, in an average daily delivery.

Mr. MALEK. Yes, sir; when you add it together, it seems to be over 500 pieces of mail per person per day, and that is a staggering number. But at the same time, I think it underlines the importance of the Postal Service and the importance that mails have to play in the communication in this country.

Senator MATHIAS. The Pyramids of Egypt have been cited as one of the Seven Wonders of the Ancient World. One of the reasons they are celebrated as a wonder of the ancient world is that they represent the enormous task of moving material, of moving stones from one place and piling them up in another place. I suspect that if one could get the 61 billion letters all piled up in one place, it would appear to be as great a human achievement in engineering and applied energy as building the Pyramids.

But we don't do it once every 5,000 years, we do it every year. It would be an interesting speculation for someone on some sleepless

night to figure out the volume involved at 61 billion first-class letters and see if in fact that actually reaches the level of something like the Pyramid of Cheops.

Mr. MALEK. Senator, my guess would be if you pile up the 61-billion pieces together, it would be stacked far higher than the pyramid. But at the time time, while that volume is staggering, I am not sure it is—in fact, I think it is the opposite. I think it is a positive indication of the level of service that can be provided to our country through a well-organized highly technologically sophisticated Postal Service.

The Postal Service has come to play such an important role in the lives of all of us. We are dependent on it for communicating with friends, relatives, business associates. We are dependent on it for a wide range of business utilization. Unfortunately, we also depend upon it to get our bills and sometimes unwanted pieces of mail. But nevertheless, it is a service that people have a very great reliance on, and I think it is a tribute to both the Service and to the advancement of technology in our country that we are able to do it and do it at the cost that it is currently done.

If I might add to that, Mr. Chairman, the Postal Service has done some interesting comparisons with foreign countries and the cables I have read indicate that the cost per letter in the United States is less than any country in Western Europe or in Japan. I think while we should take some pride in this, at the same time it doesn't mean we cannot and should not do even better.

Senator MATHIAS. We have to do even better.

Mr. MALEK. Yes, sir.

Senator MATHIAS. The Congress has over the last few years gradually retreated from participation in the direct affairs of the Postal Service. The Senate at one time confirmed every postmaster in the country, which meant that members of the Senate were very directly involved in the appointment of those postmasters. That is no longer the case.

The Congress at one time participated directly in setting postal rates. That is no longer the case.

Let's look at the rate question. Do you think that postal rates—of course, that implies postal services—ought to be submitted to the Congress from time to time for approval or disapproval, or do you think the practice of delegating this responsibility to what is in essence a board of experts is a better practice? Of course, you can look at it two ways. On the one hand, you can say, well, Congress is just being cowardly, they don't want to take the heat for raising postal rates, they want to be protected from the ire of their constituents and so they pass the buck. On the other hand, there is the question of expertise. Congress is dealing across the whole spectrum of Government. But a decision as to whether or not postal rates should go up a penny or two pennies or whatever, is a decision that ought to be made on the basis of cost-effectiveness, productivity, requirements for capital investment in the future, resulting from in-depth knowledge of the Postal Service.

Where do you come down on this? Should this be a congressional decision or should it remain with the Board of Governors?

Mr. MALEK. Mr. Chairman, I believe it should remain with the Board of Governors. My understanding of the Postal Reorganization

Act was that the intent was to remove decisions affecting postal operations from the broad body politics, from the impact of the executive branch, and from the impact of the Congress in terms of specific operating decisions. I believe this is healthy. It enables the Postal Service to divorce itself from the political arena, and pursue the development of professional management. I think this act recognizes that the mail system does perform a business-like function and therefore should be operated much like a business.

At the same time, the act relieves the Congress and the President of many of the onerous chores that are connected with the postal system so that they can devote their time properly to issues of higher national priority. I feel that from my examination over the past 10 years, that the Postal Reorganization Act has worked effectively; and that the role of the Board of Governors and the Postal Rate Commission as established has been a constructive one and that it has acted very much in the public interest. I think it should continue in that way.

Senator MATHIAS. The Board of Governors, among its other duties, appoints and has the power to remove the Postmaster General. This is one of the most serious responsibilities of the Board. Should it fall to you during the course of your term as a Governor to participate in appointing the Postmaster General, what qualifications would you look at? What performance would you expect?

Mr. MALEK. Mr. Chairman, the Postal Service is as large and complex a business as any in the world. I think it would be essential for a Postmaster General to have integrity, to have a wide-ranging and successful experience in management, either in the public sector or in private enterprise. I think it would be essential to have a finely tuned intellect since the issues that he or she would be grappling with are of enormous dimensions and complexity; and finally, I think that a person selected would have to have a keen understanding of employee relations and motivations. He or she would have to be a very good people person. The Postal Service is dependent for its efficiency and for its effectiveness on the performance of hundreds of thousands of employees scattered all over the country. And it is absolutely essential that the morale of these employees be maintained at a high level. So, I think this latter point, having sound people skills, would be an important criteria for selection.

Senator MATHIAS. You would look for someone who had sort of Frank Borman's approach with the Eastern personnel—charge them up, personally visit around and be aware of what is happening in the field?

Mr. MALEK. Yes, sir.

I think the Postmaster General should have this motivational capability along with the intellect that I described, and the managerial capacity and integrity.

Senator MATHIAS. The Board of Governors recently cut the capital expenditures budget very severely, I believe. In fact, the budget was cut just about in half. How do you view that action? Do you think it could have a negative impact on the ability of the Postal Service to modernize and to reach out for this goal of productivity that we have been discussing this morning?

Mr. MALEK. Mr. Chairman, it depends where the cuts took place. My understanding from discussions I have had is that the majority, if

not all of the cuts were to delay construction and rehabilitation of buildings, but that they did not delay any modernization actions. They did not delay any buildings that had safety or health problems for the employees. If this is in fact the case, I think there was a responsible action and one that will not hurt the Postal Service. On the other hand, I would be against the delaying of or the avoiding of capital expenditures which had a sound payout in terms of added cost efficiencies.

Senator MATHIAS. So you would make that kind of a distinction between the capital cuts once they were related directly to productivity and to the cost effectiveness?

Mr. MALEK. Yes, sir.

Senator MATHIAS. Let me just press you before you respond further. A 50-percent cut is a pretty disastrous kind of cut. You testified earlier that your goal would be self-sufficiency or very near self-sufficiency. That would imply an ability to sustain the capital investments, to absorb them, amortize them over a period of time. Why isn't this mutually contradictory?

Mr. MALEK. Sir, I am not familiar with all of the specific cuts that were initiated. But I hope the representatives of the Postal Service do not delay those expenditures which would improve the productivity and ultimately reduce the cost of the Postal Service, but that they simply deferred some renovation and construction of buildings where the judgment was made that they could simply last another year or 2 years, or whatever.

I would hope that this is what took place.

If I am confirmed a Governor, it would certainly be my policy to not only improve, but to search for technological innovations and capital investments related to those innovations that had a payoff in terms of efficiency. This is how we do it in our company today. We invest not as much as the Postal Service, but we do invest hundreds of millions of dollars every year in new hotels, into rehabilitation of old hotels, and into renovation of parts of existing hotels. In every case we look very carefully at the revenue and the profit and the cost impact of every dollar that we put into this. We carefully study it to insure that we are doing everything possible to improve our cost production efforts and our profits, but not to spend money where it is not going to have a very decided payoff.

I think this is the same approach that should be followed in the Postal Service. It is a business. It should be operated like a business. Any capital expenditures should have a payoff either in life safety for employees which is certainly of the essence, or for safety of consumers, who are using the service, or in terms of an economic payoff, which I think the majority of investments would be directed at.

Senator MATHIAS. The Marriott example is a good example. But they have clearly not grown and prospered by reducing investment in new properties that would augment the whole system or new techniques that would make the system work most efficiently.

I hope that is part of the experience that you have been building.

I have just two more short questions.

The other day my wife walked into the room, and with an air of total frustration, threw a piece of mail down in front of me and said, "This was mailed in Baltimore on the 22d of January." What do you

think the public's perception of the Postal Service is? How does the public look at the Postal Service?

We have just discussed the fact that every year they move 61 billion first class letters, which we are guessing if all piled up together would look like one of the Pyramids of Egypt. That is a staggering job that the Postal Service does, but the average citizen does not think of that. The average citizen thinks that it took from January 22 to March 15 to get a letter from Baltimore to Washington. That is the image. That is the perception, I'm afraid. What can be done to improve the public image?

Mr. MALEK. Mr. Chairman, I think the public image of the Postal Service is a fairly good one. The Postal Service surveys and the Rotar report, which they either have initiated or have access to, which suggests that the image is fairly good. However, that does not mean that there aren't a lot of exceptions to that.

Senator MATHIAS. Dr. Rotar ought to come read my mail.

Mr. MALEK. The other comment I would make, Mr. Chairman, is that while I cannot at this point, not being intimately familiar with the internal operations of the Postal Service, I cannot really defend their record. They do set standards for how quickly mail should be delivered from one part of the country to another, ranging from overnight to, I believe, 3 days. Then they measure against that standard to see how they are doing. I am not exactly sure how they measure, or whether you have a completely valid statistical sample in how they measure it, but the measures they use show that more than 90 percent of the time that they meet that standard.

But that does not mean that very important pieces of mail cannot be delayed beyond that point from time to time as you have experienced, and as I have experienced. We have the very same situation in our hotels. We have comment forms that we pay a lot of attention to. While it shows that more than 90 percent of our comments are positive, we give a great deal of worry and concern to that less than 10 percent which indicates tardy room service or inefficient service in a lounge or a room that is not completely made up or having a television set that doesn't work, anything that deviates from the standard in our business, and I am sure in the Postal Serivce, as well, requires a great deal of attention because people have come to expect a certain level of service. They are paying for a certain level of service. They should get it.

Senator MATHIAS. I understand that. But it does seem to me that the long-delayed letter, the occasional misdelivered letter is the aberration. That kind of thing does get a disproportionate share of attention, though. The fact that 61 billion letters are accurately delivered is just accepted as a matter of course. It seems to me that somehow or other that perception has to be gotten across.

Finally, let me just ask you this question: If you are confirmed as a member of the Board of Governors, what would be your first goal toward improving the Service?

Mr. MALEK. Mr. Chairman, my first goal would be to first dig into all of the voluminous studies and reports that have been compiled by the Postal Service to discuss extensively with the senior management of the Postal Service the nature of their operations and to search for opportunities to improve the effectiveness of the Service, to identify

those issues which, if acted upon positively, could either improve the effectiveness of the Service, reduce the costs, or both. And once having identified these issues, I would request the Postmaster General to follow through with the necessary analytical work to test the thesis of these issues and as an end result to come up with some new areas where we can improve the efficiency and the service of the Postal Service.

Senator MATHIAS. Governor Pryor?

Senator PRYOR. Thank you, Mr. Chairman.

Mr. Malek, I still have several unanswered questions remaining in my mind from the hearing of March 12, when you first appeared before this committee and those questions relate, Mr. Malek, not necessarily to your position on postal matters, nor how you would help run the Postal Service, but how a few years ago you were helping to run the White House. I don't know if the past is prologue or not. But I do think that it is incumbent on this committee and the duty that we have to our colleagues in the Senate to really come to grips with some of these questions and hopefully elicit from you some answers. I don't feel they have been forthcoming, or that you were candid about it on March 12.

I am wondering first, Mr. Malek, if you had the opportunity to remain for that portion of the hearing when Mr. James Hamilton who formerly was with the Watergate Committee testified? I was wondering if you heard his statement relative to your background.

Mr. MALEK. Yes, sir, I did.

Senator PRYOR. Did you in any way disagree with any of that statement?

Mr. MALEK. Senator Pryor, I generally agree with Mr. Hamilton's contention that the responsiveness program itself, the memos and the specific incidents mentioned were wrong and regrettable. I also agree with Mr. Hamilton's testimony that the responsiveness program did not accomplish as much as anticipated. However, even the absence of implementation while it mitigates to some extent the severity, I still feel the program was wrong and I agree with Mr. Hamilton's contention in that regard.

Senator PRYOR. You testified before the committee in response to a question by one of our colleagues—I wish that he were present this morning—Senator Danforth, about a June 26th, 1972, memorandum entitled "Black Vote Campaign Plan," written to John Mitchell, the head of the Committee to Re-elect the President, regarding the allocation of new grants and the close coordination between the White House and the campaign team on this subject. You testified that this memorandum was never sent and was never approved by you. However, according to Mr. Hamilton, in the Watergate Committee report on pages 377 and 378, and I quote:

> Malek testified he was not certain that this document was actually read or approved by him or forwarded to Mitchell; however, he did not deny sending it to Mitchell. He stated that normally memorandums would not be sent to the campaign director over his name unless he had read and approved them. The committee [the Watergate Committee] subsequent to Mr. Malek's testimony discovered another copy of this document in Clark MacGregor's CRP files that was initialed by Mr. Malek.

This memo is exhibit 19–A, and is found on page 8859, of the Watergate Committee hearings.

My question to you is: Have you refreshed your memory and do you want to correct the statement you made to Senator Danforth, and I quote your statement, "This is not a memo that I ever sent or approved."

Mr. MALEK. Thank you, Senator Pryor.

Yes, I would like to correct that record. My exact statement at the hearing on March 12, if I may rephrase the entire sentence, was that I pointed out to the committee at the time, meaning the Watergate Committee investigation 10 years ago, at the time of this hearing some 9 years ago, hat this was not a memo that I ever had sent or approved. I stated this after reviewing the prior testimony at the Watergate hearing, and reviewing the record which at that time did not indicate that there was a signed memo.

I still do not recall the memo. I still do not recall ever having sent it or authorized its content. However, as you have correctly pointed out, there is an initial copy of that memo that was found in Mr. MacGregor's files and therefore I cannot with certitude say I did not at the time authorize, initial or send it, but I do not recall it.

Senator PRYOR. Do you recall writing—if you do not recall initialing this memo or sending it to the proper authorities in the White House? Do you recall writing this paragraph? This is the June 24, 1972 memo entitled "Black Vote Campaign Plan," where it is written under the heading, "Intensify Efforts To Utilize Government Grants and Loans," and I am quoting from your memo to see if you remember writing this.

Effective allocation of new grants requires close coordination between the White House and the Campaign team. As a first step, I have asked Bob Brown to identify all major sources of grant and loan moneys which could be allocated to blacks. Then, Jones and Sexton, working through their field organization, will be responsible for finding recipients in key cities who will be supportive of the re-election effort.

My question is, doesn't this memorandum make it very clear that there was a concentrated effort to allocate grant money, loan money in the black community with the express intent to favorably affect the re-election campaign? This is your memorandum.

Mr. MALEK. Senator Pryor, I do not recall writing that memo or authorizing it. However, I cannot say again with certitude that I did not. If I did either author or authorize that memo, it was clearly improper. Each instant referred to in the memo, or that portion of the memo from which you are reading, I would regard as improper if implemented.

Senator PRYOR. The memorandum is found in the Watergate Committee hearing on page 8859.

I would also like to turn to another memorandum and this can be found on page 8380 of the Watergate report. This is a memorandum dated June 7, 1972. This comes a few weeks before your June 26 memorandum.

You just stated that you felt the June 26 memorandum was wrong, that it should not have been sent, that it was not fair, et cetera. On June 7 you wrote an additional memorandum to Mr. Haldeman from Fred Malek, Subject: Responsiveness Program. This memorandum I feel, Mr. Malek, undercuts severely your alleged innocence and claims that you did nothing wrong nor intended anything wrong to be done.

This memorandum gives, I think, a very clear idea of what the Responsiveness Program was accomplishing, was intending to accomplish, and what you, Mr. Malek, attempted to take credit for.

Let me read for you, if I might, Mr. Malek, a portion of this memorandum that you had written 2 weeks prior to the June 26 memorandum, which you come before the committee and say was wrong.

Thus far, the program is on schedule. I have now reviewed the program with each Cabinet officer (except Rogers) and with the heads of the key agencies, ACTION, EPA, OEO, SBA, GSA, and the VA. In each session the following was covered: Emphasized need to make re-election support the top priority and the need to respond to requests in this regard; discussed which States, counties, and voting blocs are considered key and should be targeted by them.

I assume those particular agencies of the U.S. Government had them name a top official who would be the political contact for this program—generally the Under Secretary—and asked them—the top officials in these agencies—"to educate loyal appointees—including Regional Directors—as to priorities and expectations, thus forming a political network in each Department."

This is your memorandum, Mr. Malek—

Asked them to review all their resources and develop a plan for maximizing impact on these resources in key areas—indicated particular areas in their Department that require special attention. Establish my office as the channel of communications with the campaign and stressed that we would work solely through Bill Gifford on grant requests * * * two members of my staff—Stan Anderson and Rob Davison—have been relieved of other responsibilities to concentrate on this. They have now held follow-up meetings with the Secretary's designees in most departments to discuss the programs in more detail and begin development of the Department Action Plans.

Do you feel like this was in any way a wrongful act?

Mr. MALEK. I feel, as I believe I have testified, Senator Pryor, that this memo was improper and many of the elements in the memo I regard as improper and regrettable.

Senator PRYOR. When did you consider these to be regrettable, the day that Mr. Nixon left the White House? At what stage in your involvement did you consider these to be regrettable and wrong?

Mr. MALEK. Senator, I realized at the time that the program and these memos had some improper components. These various memos were drafted without a great deal of forethought as to which actions were practical or proper. And, as we prepared to get into the implementation of some of these actions, my staff and I realized that certain aspects were highly improper and I think it is this realization and our lack of enthusiasm which was at least in part responsible for many of the actions not being implemented, and the program, as Mr. Hamilton testified, not achieving as much as anticipated or suggested by the memos. This does not excuse in my mind having written the memo, which I regard as a mistake, which I regret. In my view this type of practice has no possible conceivable role in an organization such as the Postal Service.

Senator PRYOR. I didn't think it had a role in the Veterans Administration or the Office of Economic Opportunity. I didn't think that a responsiveness program like this had any role in deciding whether we would send grants to the elderly or grants to model cities programs. To quote once again from your June 7, 1972 memorandum, "Three highly publicized Model Cities projects in the Mexican Amer-

ican Section of Los Angeles," you wrote, "were not going to be funded because of lack of money and political conflicts with the black leaders in Watts. The project included a home for mentally retarded children, a senior citizens home, and a media vocational center. HUD has agreed to fund the projects and is formulating a plan so that it can be done without alienating the blacks."

I don't think that the Government should be involved with things like this, and evidently you did, and I am trying to ascertain basically when you saw the light.

Mr. MALEK. Mr. Chairman, I agree with you. I don't think Government should be involved in any of those kinds of activities and as I stated, I realized at the time that the program had many improper components. And, again, as we prepared to brief the departments and consider carrying out of these actions, we came to the realization and the understanding that many of these activities were improper. I felt so then, and I feel so now.

Senator PRYOR. When you felt like this program was not working as you wanted it to, did you talk to Mr. Haldeman about this?

Mr. MALEK. I don't recall, Senator, whether I had any specific discussions with Mr. Haldeman about the impropriety or various aspects of the program. I do recall, however, that my staff and I realized that many of these activities were improper and whether we discussed them or not, I don't recall, but I do recall that we did not carry out many of these activities.

Senator PRYOR. I think for the moment, Mr. Chairman, if I might, I would like to yield to my colleague, Senator Levin.

Senator MATHIAS. The Senator from Michigan.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Mr. Chairman.

Thank you, Senator Pryor.

Mr. Chairman, Mr. Malek appeared in front of this committee on March 12. We provided him an opportunity to explain his role in the so-called "responsiveness program," which was aimed at assisting President Nixon's reelection. We questioned Mr. Malek in some detail about the stated intent of that program and his role in designing, organizing, and implementing that program.

We read to Mr. Malek portions of a March 17, 1972, memorandum which he wrote and which laid out the specific ways in which the goals of the responsiveness program were to be met. In that memorandum, Mr. Malek wrote: "Attached is a paper outlining our proposed program for improving departmental responsiveness in support of the President's reelection." Mr. Malek then spelled out in great detail actions already underway in some executive agencies:

> The Department of Commerce provides a good example. To date Gifford has made some 35 requests. Most of these involved expediting the normal grant reviewing process and securing the release of information. Approximately a dozen of these requests resulted in favorable grant decisions (which otherwise would not have been made) involving roughly $1 million. Politically these actions have been most beneficial.

Mr. Malek continued:

> Nevertheless, in spite of this achievement, the potential is much greater. In the Commerce Department, for example, there is nearly $700 million in funds re-

maining in this fiscal year which could be redirected in some manner . . . even if only 5 percent of this amount can be rechanneled to impact more directly on target groups or geographic areas, it would be a substantial increase over the current efforts.

To capitalize upon such opportunities, the Departments must initiate action themselves. This would entail each Department developing a program by which it would systematically but discretely seek out opportunities for improving services to target groups and geographic areas and then insure that appropriate action is taken.

Mr. Malek then suggested specific ways to strengthen departmental responsiveness to the reelection effort. He recommended that the White House give the Departments clear guidelines on how to conduct their politically important activities, that each Department develop a plan to insure that the White House give the Departments clear guidelines on how to conduct their politically important activities, that each Department develop a plan to insure that political priorities were reflected in operating decisions, and that all these actions be coordinated by Mr. Malek at the White House.

"The guidelines covering political priorities for the Departments," Mr. Malek wrote, "would be spelled out in terms of States and major voting bloc groups upon which Department action could have an impact." Mr. Malek then spelled out the types of activities covered under the program:

The major ones, of course, are positive decisions (project grants, contracts, loans, subsidies, procurement and construction projects) and negative actions (taking legal or regulatory action against a group of governmental body, major cutbacks in programs, and relocation of Department operations).

In this same memorandum, Mr. Malek and his staff assumed responsibility for coordinating and conducting the program. Specifically, Mr. Malek was responsible for the following:

Preparing the guidelines for presentation to the departmental contacts.

Assisting the Departments in organizing for the program and working with them in the development of their plans.

Reviewing the Departmental plans to insure they map out the best possible effort to meet the priorities and coordinating these with Cap Weinberger and the relevant Domestic Council staff members.

In designing the responsiveness program, Mr. Malek wrote that "the most significant drawback of the program is, of course, the risk of adverse publicity. Naturally," he wrote, "steps would be taken (1) to insure that information about the program itself and the Department plans would not be leaked and (2) keep the President and the White House disassociated with the program in the event of a leak." He continued:

First, written communication would be kept to a minimum. There would be no written communications from the White House to the Departments—all information about the program would be transmitted verbally * * * progress reports would be verbal.

Second, the documents prepared would not indicate White House involvement in any way. Also, oral and written communications concerning the program within the Department would be structured to give the impression that the program was initiated by the Department head without the knowledge of the White House * * * However, this possible drawback is small compared to the probable payoffs from effectively capitalizing on the resources of the executive branch.

At the same time, Mr. Malek wrote the following regarding the actual implementation of the program:

First, the Departments must be given a clear understanding of what is expected of them in carrying out the program, as well as the President's full backing of

the program. To demonstrate Presidential support, it would first be covered briefly at a Cabinet meeting. This briefing would be made by Malek and would cover the need for the program, the Department responsibilities outlined previously, and the implementation timetable. He would indicate that followup meetings would be scheduled with each Department Head * * *

In a June 7, 1972, followup memorandum from Mr. Malek to Mr. Haldeman, which I will ask the Chairman to also include in this hearing record,[1] Mr. Malek reported the progress made to date on the responsiveness program. He wrote:

Thus far the program is on schedule. I have now reviewed the program with each Cabinet Officer (except Rogers) and with the heads of the key Agencies (ACTION, EPA, OEO, SBA, GSA, and VA). In each session the following was covered:

Emphasized need to make re-election support the top priority and the need to respond to requests * * *

Discussed which states, counties, and voting blocs are considered key and should be targeted by them * * *

Had them name a top official who would be the political contact for this program * * *

Asked them to educate loyal appointees * * *

Established my office as the channel of communications * * *

On this specific accomplishments under the program, Mr. Malek was able to report on 12 "Responsiveness issues," all of which had been sent as requests to Mr. Malek from the Committee to Re-elect the President. These are 3 of those 12 listed by Mr. Malek as program accomplishments:

The Department of Labor ruled that Local 454 of the Dock and Wharf Builders Union in Philadelphia, whose steward is an active backer of this Administration was not responsible for the illegal actions of its President. This action was requested by the Pennsylvania Committee for the Re-election of the President, and they report that this action had a very strong impact on the local ethnic union members.

We garnered from reliable sources in the Equal Employment Opportunity Commission that the Commission was preparing to sue the University of Texas for discrimination in the hiring of faculty. This could be disastrous in Texas. When queried, Bill Brown, Chairman of EEOC, agreed not to pursue it. I will continue to follow this situation closely.

The Department of Labor has asked to award a $2.2 million migrant labor program contract in Texas to a pro-Administration group. Labor had already publicly committed itself to a consortium of anti-Administration OEO/CAP agencies. Labor has reversed its stand.

When Mr. Malek appeared in front of us earlier, we read his written words back to him. We then asked him point blank whether these two documents outlined any actions which were unethical or immoral or improper.

Mr. Malek responded that he thought these activities could be subject to many interpretations, and that it was his interpretation that nothing illegal or unethical was intended or carried out. When I asked him if the March 17 memorandum suggested that grants be made to the President's supporters, he answered, "I don't think it does." When I asked if that memorandum suggested that people who are not the President's supporters be punished in anyway, he answered, "I don't think it does."

Mr. Malek did concede, however, that the Responsiveness Program was a mistake, for two reasons. First, he stated, it "created an atmosphere where over-zealous staff people might be encouraged to step dan-

[1] The memorandum referred to may be found in the committee files.

gerously close to the brink and even to over-step the boundaries of legality and propriety." Second, he concluded, "the organized effort and attendant memos convey an appearance of impropriety to the public thus reducing public confident."

I agree with Mr. Malek that the Responsiveness Program was a mistake. But I also see, as Mr. Malek refuses to, that his role in it was also a mistake, and that his role in it was unethical, immoral, and improper. Rather than merely creating an atmosphere where other over-zealous staff people might be encouraged to step dangerously close to the brink or overstep the boundaries of legality and impropriety, Mr. Malek actually took that step himself. He overstepped the boundaries of propriety. And rather than merely creating an appearance of impropriety, the memoranda Mr. Malek wrote and the actions he took, document concretely with vividly the actual improprieties which Mr. Malek perpetrated.

The documents I have read from today cannot be laundered by talking about intent or misinterpretation. These documents are not subject to misinterpretation. They lead to only one interpretation, and that is, Mr. Malek spearheaded a calculated, systematic effort to sell Government favors to the highest bidder in the Nixon reelection campaign and to punish low bidders or the nonbidders.

Mr. Malek's repeated refusal to acknowledge the meaning and intent of the Responsiveness Program and his pivotal role in it raise questions about his candor and judgment and intellectual honesty. And let me emphasize, it is his honesty and candor and judgment now I am most interested in, far more than his actions and judgment in 1972.

Finally, Mr. Malek's denial at the last hearing that he approved, signed or sent a memorandum entitled "Black Vote Campaign Plan" on June 26, 1972, to John Mitchell directly contradicts the Watergate Committee Record as referred to us by Mr. Hamilton at our earlier hearing. That Watergate Committee Record shows that a copy of the memorandum initialed by Mr. Malek was received by the Committee-To Re-Elect the President, where it was found in Clark MacGregor's files.

On that last item, I would like to pursue a question which Senator Pryor asked you, Mr. Malek. You indicate you have no recollection of approving that memorandum. I am wondering whether or not you were referring here to the memorandum on June 26, 1972, on the Black Vote Campaign. Have you looked at your initial copy of that memorandum to see whether in fact those are your initials?

Mr. MALEK. Yes, sir.

I have looked at that memorandum subsequent to the last hearing.

Senator LEVIN. Are they your initials?

Mr. MALEK. They certainly appear to me to be my initials.

Senator LEVIN. Do you ordinarily read memos before you initial them?

Mr. MALEK. Yes, sir.

Senator LEVIN. Let me ask you some questions again to see whether your answers are the same as they were last time.

On the question of whether or not the March 17 memo suggests that grants be made to the President's supporters, Mr. Malek, does the March 17, 1972, memo suggest that grants be made to the President's supporters?

Mr. MALEK. Yes, Senator, I believe it does.

Senator LEVIN. Mr. Malek, does that memo suggest that people who are not the President's supporters be punished in some way?

Mr. MALEK. Yes; the memo does suggest that.

Senator LEVIN. Those answers, I believe, are candid, are honest, and directly contradict the answers which you gave in last week's testimony.

In last week's testimony, I quoted from your memo again and made reference to your words where you said that the "effort should be focused on those subagencies where the payoff is the greatest and in some cases the Departments will have to tighten control over decisions in the high payoff areas."

Was the payoff that you were referring to a political payoff to the President's reelection campaign?

Senator LEVIN. Yes; the transcript of last week, I am quoting from your same memo, perhaps it would be easier to quote directly from the memo, which says, "Rather the efforts should be focused on those subagencies where the payoff is the greatest."

Mr. MALEK. Yes.

Senator LEVIN. The last line says, "In some cases the Departments will have to tighten control over the decisions in the high payoff areas and over the announcements process."

I am wondering if the payoff you are referring to in your memo is a political payoff to the President's reelection campaign.

Mr. MALEK. Senator, I can only surmise what it means. I believe that it means those areas of the country and those voter groups who have potentially the greatest political impact.

Senator LEVIN. Would that mean political payoff for the President's reelection campaign?

Mr. MALEK. No, sir, it means payoff in terms of impact on a large group of important voters.

Senator LEVIN. In last week's transcript, Mr. Hamilton stated the following relative to the objective of the responsiveness program. Simply stated, "The objective of the Responsiveness Program was to employ the resources of the Federal Government to reelect Mr. Nixon."

Do you agree with Mr. Hamilton's assessment of that program?

Mr. MALEK. Yes, I do.

Senator LEVIN. In last week's transcript, Mr. Hamilton stated that the evidence also indicated that the White House Personnel Office, which Mr. Malek supervised, made various attempts to insure that political factors were considered in hiring persons with protected career Government positions. Do you agree with that statement of Mr. Hamilton?

Mr. MALEK. No, sir.

Senator LEVIN. In the transcript from last week, Mr. Hamilton wrote the following:

> The Watergate Committee found and it is a finding I agree with, that there was an intentional effort, for example, to redirect grants for political purposes, that there was effort made to award Administration friends and to penalize Administration opponents. If I understand Mr. Malek correctly, he disagrees with that characterization of the Responsiveness program.

Do you disagree with that characterization of the responsiveness program?

Mr. MALEK. Senator Levin, I disagree that there was any intentional effort on my part to redirect grants for political purposes or to award administration friends and penalize administration opponents. I cannot say with conviction that these things were not done as part of the Nixon administration.

Senator LEVIN. This morning you do agree that the memo that you wrote suggested that they be done?

Mr. MALEK. Yes, sir, I do.

Senator LEVIN. I have no further questions, Mr. Chairman.

Senator MATHIAS. Senator Pryor?

Senator PRYOR. Mr. Malek, if you became a member of the Board of Governors of the Postal Service, let's assume—I will give you a hypothetical. I don't even know what this job pays, to be a member of the Board of Governors. Do you happen to know?

Mr. MALEK. Senator Pryor, it is a part-time position as I am sure you realize, and it is more or less equivalent to being on the board of directors of a corporation, and there is a fee structure. I don't recall precisely. I think it is $10,000 a year, Senator.

Senator PRYOR. That is what I used to make when I was Governor of Arkansas. They have changed that now after I got out of office. [Laughter.]

Senator MATHIAS. It's always the way.

Senator PRYOR. Once you leave, that's when the good things happen.

If President Reagan came to you one evening and said, "Mr. Malek, you are now one of the Governors of the Postal Services, I would like you to set up a responsiveness program." What would you say to the President of the United States?

Mr. MALEK. Senator Pryor, I would tell him it is wrong and that it is not appropriate, and that it was not an appropriate request, and I would not do it.

Senator PRYOR. Would you resign before you did?

Mr. MALEK. Absolutely.

Senator PRYOR. What about Mr. Marriott, what if he came to you and asked you to do it?

Mr. MALEK. To set up a responsiveness program in the Postal Service?

Senator PRYOR. In the Postal Service.

Mr. MALEK. I can't imagine either one of those instances taking place, but I understand the direction of your question.

Senator PRYOR. I can't imagine what took place in the seventies, either.

Mr. MALEK. Senator Pryor, I would tell Mr. Marriott the same thing, that it was not an appropriate request, that it was not something that I would have any part of and that in fact——

Senator PRYOR. He pays you a lot more than what the Government would pay you.

Mr. MALEK. Senator Pryor, I think there are some things that transcend the amount of income that one might receive. I think that maintaining a sense of integrity and a sense of who you are and where you are in life is more important to me than employment at any particular place. In fact, I think that if such a request came to me by Mr. Marriott, or by anyone lese whom I worked for such as the chairman of one of the companies on whose board I serve, I would not only consider it in-

appropriate, I think it would be the kind of thing that I would resign for whether or not it was pursued.

Senator PRYOR. Resign from the Marriott Corp.?

Mr. MALEK. Yes.

Senator PRYOR. Or resign from the Postal Service?

Mr. MALEK. If I had that kind of directive from the chief executive officer of my company, or any other company on whose board I serve, I would consider that to be something that was sufficiently inappropriate that I would no longer want to work for that corporation or that person.

Senator PRYOR. Did resigning ever occur to you in the period of time when you were running the responsiveness program? Did it ever occur to you that what you were doing was wrong or immoral?

Mr. MALEK. Yes, sir, it did.

Senator PRYOR. But you did nothing about it?

Mr. MALEK. Well, we did something about it. We simply refrained from pursuing with vigor aspects of the program that had been laid out in prior memos.

Senator PRYOR. You were taking credit for the program working, by your own memo. Were you engaged in a falsehood at that time?

Mr. MALEK. Senator, it is very difficult to prove an assertion that something hasn't been done. You can prove that things have been done, but it is very difficult to prove that things such as those incidents were not done. I guess the only support or the best support that I can offer is the Special Prosecutor's Office thoroughly investigated each of those incidents and chose not to charge anybody. Nevertheless, I recognize that the incidents that were contemplated in the various memoranda were improper.

Senator PRYOR. You were aware at the time that it was improper?

Mr. MALEK. Yes, sir.

Senator PRYOR. Yet there was not that something in your genes or chromosones or defense mechanisms between knowing right from wrong that made you do anything to extricate yourself from that situation? You went ahead and did it.

My question is this: I think you knew it was wrong. But my problem is, you knew it was wrong and you did it. If you know it is wrong in the future, what is going to make you not do it in the future? What is going to make you basically realize that it is wrong and then have enough courage to do something about it? Where have you changed, Mr. Malek? When did you change? That is why I keep asking these questions. What do you have now in your character that you didn't have then?

Mr. MALEK. Senator, would you like me to give a kind of rambling answer to that?

Senator PRYOR. I would. I am intrigued by this whole exercise.

Mr. MALEK. First of all, it is very hard to explain why one would participate in a program that one recognizes is improper at the time. I cannot offer an explanation to you here today that I am going to be personally satisfied with. However, I do attribute it in part to the highly authoritarian atmosphere in the White House at the time, an atmosphere in which all staff members were conditioned to carry out directions from above. Most of these directives had implied Presidential authority behind them and there was sort of a "must do at any

cost" environment that was present. I don't think this is excusable. I am not trying to tell you that it is. But what I am showing you is the general atmosphere that existed at the time and how one might have been motivated to pursue a Presidential directive even though he had questions about it.

Second, as I stated, having realized it was wrong, it seemed to me that the better course of action was simply to pursue selected aspects which we did not regard as improper or impractical and not to pursue the aspects of the plan which were highly improper. This is why many of the things that were suggested in the memo were not implemented as it was stated they would be. At the same time, I have to acknowledge that whatever was implemented or was not implemented, the compilation of the memoranda themselves and the implied intent of those memos I think was improper. Now what has changed?

I believe, Senator, that I did take actions to mitigate against the improprieties at the time. I believe I realized at the time that this was the only way to work with the issue. Moreover, I have had 10 years of experience and 10 years of time to reflect on some of these earlier activities. In my reflection on these earlier activities, I acknowledge to you that there were activities carried out at the time, planned at the time that were improper. I have learned the consequences of this. I clearly recognize and acknowledge my error of 10 years ago and I think I have emerged from this experience, which was not without a great deal of person trauma to me at the time and today, with a strength and conviction that a public servant must protect the public trust with his body and soul and must resolutely resist and prevent any action or order that threatens to betray this trust or even gives the appearance of betraying this trust.

I think I have learned a great deal from the experience. I think I have emerged from it strengthened from the adversity and with strength in conviction.

Senator MATHIAS. If the Senator from Arkansas will yield at this point, I think Mr. Malek has not understated his answer with his description of the kind of atmosphere that prevailed at the White House at the time. Among the many documents that emerged in the Watergate exercise, I personally recall a memorandum that had originated with Mr. Haldeman in which it directed, or which directed that a letter writing campaign be organized. I don't like to say against me, but with the object of changing my opinion on a variety of issues. And some staff member in the White House endorsed the memorandum and sent it back to Mr. Haldeman with the observation that he didn't think it was a useful exercise and that he didn't think it would be successful. And then it got a second endorsement by Mr. Haldeman and was sent back again to the staff member and said, "This was not asking your opinion. It was an order." And that he expects it to be done. So I do think it kind of reflects the kind of atmosphere.

Senator PRYOR. I think the issue, though, and you have raised a good issue, Senator Mathias, is that the staff member that did show the courage to give his opinion that it was not proper, or that it would not be successful probably lost his or her job and that individual showed the necessary character and courage to stand up to that particular environment and atmosphere that existed at that time.

I am trying to ascertain from Mr. Malek if he is going to have that

additional sinew in his system to stand up in the future or whether he is going to repeat what he did in the past. I am not satisfied with the answers. I hate to bring religion into any of this. I don't want to. But I sit here, Mr. Malek, and I think about Mr. Colson. I don't know what has happened to Mr. Colson, but I do know he is one of those individuals who went to prison and he evidently has claimed that he has been born again. I don't want to get into all of that, but at least he has publicly demonstrated that he has seen the error of what he did. I don't know that it is the duty of the Congress and the Government to be a halfway house. I don t know whether it is. I believe in rehabilitation. I believe in amnesty. I believe in forgiveness and all of that. But I just don't know whether—I am still not satisfied that you have sensed how totally immoral all of this was. Maybe you have convinced my colleagues, but I don't know that you have convinced me.

I want to say that in all respect. You have a tremendous background in organizational ability, you have business experience, managerial experience. That is what the Postal Service needs. I am wondering about this other concern that I have. Maybe we will pursue these as the days go by.

Mr. MALEK. May I comment?

Senator PRYOR. Certainly.

Mr. MALEK. Senator Pryor, I assure you that I resisted or objected to tens or even hundreds of directives that I considered improper during my tenure in the White House. The atmosphere at the time, as Senator Mathias suggests, and as I had suggested, was one of strict authoritarianism. Nevertheless, I and members of my staff and many of my colleagues objected successfully, I might add, to tens of hundreds of requests because these ideas and requests were boiling over day by day.

The President must have spent a great deal of time thinking about various matters such as this because these requests were forthcoming almost daily.

I want to assure you that in addition to that, that there is absolutely no way that I would carry out an improper request from any source today. I don't know how else I can answer to your satisfaction. I have acknowledged that I feel the program was a mistake. It was probably the greatest mistake of my life. And I regret my role in it. I don't know how much more contrition I can provide to this committee. I have candidly and honestly acknowledged my mistake. I have explained to you my philosophy of government. I have explained to you the atmosphere under which it took place. And I have explained to you my philosophy with regard to the Postal Service and how one should handle such matters.

Senator PRYOR. Mr. Chairman, that is all I have.

Thank you, Mr. Malek.

Excuse me, Mr. Chairman. I think Senator Levin would like the record kept open for additional questions.

Senator MATHIAS. It is the intention of the Chair to keep the record open for the balance of this week. That would be through—I am advised that the chairman of the full committee would like to restrict the period in which the record is open.

Do you have any idea how long Senator Levin needs?

Senator PRYOR. Forty-eight hours, Mr. Chairman. Is that satisfactory?

Senator MATHIAS. Forty-eight hours is a little bit longer than Senator Roth would like. But I think that is not unreasonable.

Senator PRYOR. Forty-seven? [Laughter.]

Senator MATHIAS. I think we can go the full distance and make it 48 hours. I will so direct at this time.

Senator PRYOR. Thank you, Mr. Chairman.

Senator MATHIAS. It has been a rather remarkable hearing, and one I know that has cost participants on both sides. It isn't easy to occupy the seat that Senator Pryor has occupied, to raise the kind of questions that he has raised. I know that he has done it in good faith and good conscience. And it is the work of the committee, the less pleasant work of the committee. But that is what we are here to do.

On the other hand, it hasn't been easy for Mr. Malek. He has had to plow over old fields that I expect he never wanted to see again. And in plowing over those fields, breaking the sod, he must have exposed for himself feelings and opinions that are not pleasant. He has been exceedingly candid here this morning, in acknowledging the mistakes of the past. I think the committee, when it comes to review this record, will register an appreciation for his candor, for the objective way in which he has looked at the mistakes of the past, which we, I think, unanimously agree are mistakes. And certainly that acknowledgement of the mistakes of the past is an essential ingredient in looking to the future.

We thank you for being here, Mr. Malek.

Mr. MALEK. Thank you, Mr. Chairman.

Senator MATHIAS. The committee will stand in recess subject to the call of the Chair.

The record will remain open for 48 hours.

[Whereupon, at 11 a.m., the committee adjourned subject to call of the Chair.]

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